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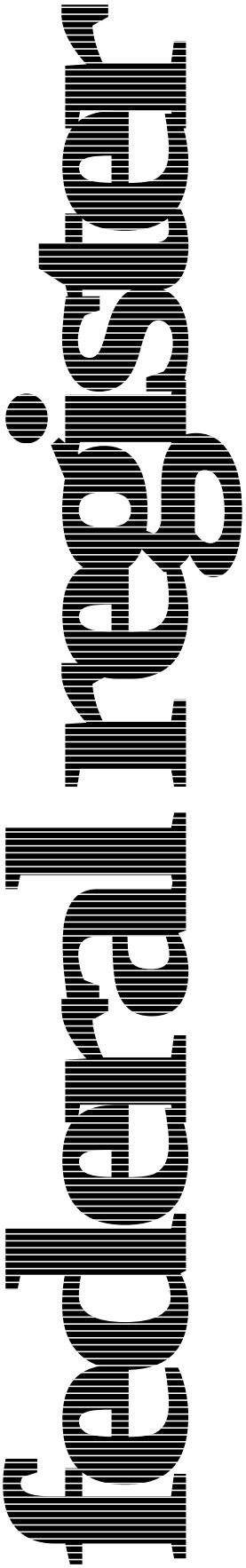

Tuesday
June 27, 1995

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Rules and Regulations

Federal Register
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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 451, 531, 550, 551, 591, and 630

RIN 3206–AG15

Incentive Awards; Pay and Leave Administration

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations to incorporate certain incentive awards and pay and leave administration rules contained in the provisionally retained Federal Personnel Manual (FPM) material, which expired on December 31, 1994, into the Code of Federal Regulations (CFR) and to remove certain recordkeeping and reporting requirements.

DATES: The final rules are effective on July 27, 1995.

FOR FURTHER INFORMATION CONTACT: Barbara Colchao, (202) 606–2720, concerning questions about the final regulations for incentive awards in 5 CFR part 451, and Bryce Baker (202) 606–2858, concerning questions about the final regulations for pay and leave administration in 5 CFR parts 531, 550, 551, 591, and 630.

SUPPLEMENTARY INFORMATION: On December 28, 1994, OPM published interim regulations (59 FR 66629) to incorporate a small number of miscellaneous incentive awards and pay and leave administration provisions in the provisionally retained FPM, which expired on December 31, 1994, into the CFR.

The rules relate to—

(1) Incentive awards—cash award limitations, documentation of informal recognition items, and eligible award recipients;

(2) Application of the two-step promotion rule for promotions from GS–1 and GS–2 positions;

(3) Application of leave without pay towards the completion of waiting periods for within-grade increases;

(4) Counting travel time as ''hours of work;''

(5) Sunday premium pay for periods of paid leave and excused absence;

(6) Payments during evacuation;

(7) Back pay computations;

(8) Computing cost-of-living allowances for employees receiving pay retention; and

(9) Leave for uncommon tours of duty.

These rules did not establish any new requirements, and they removed the recordkeeping requirements related to waiving the biweekly pay cap on premium pay and the reporting requirements for payments during evacuation.

The 60-day comment period ended on February 27, 1995. OPM received comments from one agency, one employee organization, and one individual. These comments, as well as certain technical changes in the final regulations, are summarized below.

Incentive Awards

An agency noted that the former, provisionally retained FPM material (FPM Chapter 451, Subchapter 3, section 3–2c) encouraging agencies to establish honorary awards for private citizens was not incorporated in regulation. The agency asked under what authority agencies could continue to grant awards to private citizens. Agencies may grant such awards under agency-specific authorities that would be appropriate depending on the nature of the contribution to be recognized. However, awards authorized by chapter 45 of title 5, United States Code, may be granted only to Federal employees or former Federal employees for contributions made while in the Federal service. To clarify that former Federal employees may receive awards authorized by 5 U.S.C. chapter 45 and reflect expired FPM material and statutory intent, OPM is amending 5 CFR 451.104(f) to include separated employees, as well as the legal heirs or estates of deceased employees, as eligible award recipients.

Sunday Premium Pay for Periods of Paid Leave and Excused Absence

An individual commented that part-time employees are not entitled to Sunday premium pay. OPM agrees. To clarify this, we have revised 5 CFR 550.171 and the definition of *Sunday work* in 5 CFR 550.103(o). This clarification is consistent with the information in expired Federal Personnel Manual Letter 550–79, which stated that part-time employees and employees who work intermittently are not entitled to premium pay for Sunday work; it also reflects a Comptroller General opinion regarding the compensation of part-time employees (46 Comp. Gen. 337 (1966)).

Leave for Uncommon Tours of Duty

An employee organization commented that the manner in which leave is to be charged to employees on uncommon tours of duty—specifically, firefighters who work 24-hour shifts—is not clear. In 5 CFR 630.210, the interim regulation provides agencies with the authority to require that an employee with an uncommon tour of duty must accrue and use leave on the basis of that uncommon tour of duty. Leave accrual must be directly proportional to the leave accrual rates in 5 U.S.C. 6303(a). Also, leave must be charged on an hour-for-hour basis for each hour of absence from the uncommon tour of duty. The regulation in 5 CFR 630.210 does not change the methodology for charging leave to employees on uncommon tours of duty that was previously published in the Federal Personnel Manual.

A firefighter whose leave is administered on the basis of a 144-hour biweekly tour of duty, and who has 15 or more years of service, accrues 374 hours of annual leave over a period of 26 biweekly pay periods (25 pay periods times 14 hours, plus 1 pay period times 24 hours), which equals 10 percent of the number of hours in 26 biweekly pay periods (3,744 hours). Similarly, an employee whose leave is administered on the basis of an 80-hour biweekly tour of duty, and who has 15 or more years of service, accrues 208 hours of annual leave over a period of 26 biweekly pay periods (26 pay periods times 8 hours), which also equals 10 percent of the number of hours in 26 biweekly pay periods (2,080 hours). This proportional relationship between the annual leave

accrual rates of the affected employees ensures equitable treatment.

In the interim regulations, section 630.210(a) states that ''[o]ne hour (or appropriate fraction thereof) of leave shall be charged for each hour (or appropriate fraction thereof) of absence from the uncommon tour of duty.'' Since the leave accrual rates for firefighters on uncommon tours of duty have been adjusted to fully reflect their longer work schedule, an hour-for-hour charging methodology is necessary to maintain an equitable relationship with other employees. When an employee with 15 or more years of service who works 80 hours per day period takes 1 *week* of annual leave, the employee is charged 40 hours, or about 19 percent of the leave accrued in 1 year. Similarly, when a firefighter with 15 or more years of service who works 144 hours per pay period takes 1 week of annual leave, the employee is charged 72 hours, or about 19 percent of the leave accrued in 1 year. OPM believes the manner in which leave must be charged for employees on uncommon tours of duty was clearly stated in the interim regulation. Therefore, no change has been made in this provision of the final regulations.

Miscellaneous Amendments

The authority cited in 5 CFR 531.401(c) for within-grade increase purposes is being revised to give the correct citation. (The Executive order previously cited has been revoked.) The definition of *acceptable level of competence* in 5 CFR 531.403, for within-grade increase purposes, is being revised to refer to the next higher *rate* within the grade, as well as the next higher *step* of the grade, in order to address the situation of GM employees, whose rates of basic pay are between General Schedule step rates.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal employees and agencies.

List of Subjects in 5 CFR Parts 451, 531, 550, 551 and 630

Administrative practice and procedure, Claims, Decorations, medals, awards, Government employees, Law enforcement officers, Travel and transportation expenses, Wages.

U.S. Office of Personnel Management.

James B. King,

Director.

Accordingly, the interim rule amending parts 451, 531, 550, 551, 591, and 630 of title 5 of the Code of Federal Regulations, which was published at 59 FR 66629 on December 28, 1994, is adopted as final with the following changes:

PART 451—INCENTIVE AWARDS

1. The authority citation for part 451 continues to read as follows:

Authority: 5 U.S.C. 4501–4507.

2. In § 451.104, paragraph (f) is revised to read as follows:

§ 451.104 Policy.

* * * * *

(f) An award under this subpart may be granted to a separated employee or the legal heir(s) or estate of a deceased employee.

* * * * *

PART 531—PAY UNDER THE GENERAL SCHEDULE

3. The authority citation for part 531 is revised to read as follows:

Authority: 5 U.S.C. 5115, 5307, and 5338; sec. 4 of Pub. L. 103–89, 107 Stat. 981; and E.O. 12748, 56 FR 4521, 3 CFR 1991 Comp., p. 316;

Subpart A also issued under 5 U.S.C. 5304, 5305, and 5553; section 302 of the Federal Employees Pay Comparability Act of 1990 (FEPCA), Pub. L. 101–509, 104 Stat. 1462; and E.O. 12786, 56 FR 67453, 3 CFR, 1991 Comp., p. 376;

Subpart B also issued under 5 U.S.C. 5303(g), 5333, 5334(a), and 7701(b)(2);

Subpart C also issued under 5 U.S.C. 5304, 5305, and 5553; sections 302 and 404 of FEPCA, Pub. L. 101–509, 104 Stat. 1462 and 1466; and section 3(7) of Pub. L. 102–378, 106 Stat. 1356;

Subpart D also issued under 5 U.S.C. 5335(g) and 7701(b)(2);

Subpart E also issued under 5 U.S.C. 5336;

Subpart F also issued under 5 U.S.C. 5304, 5305(g)(1), and 5553; and E.O. 12883, 58 FR 63281, 3 CFR 1993 Comp., p. 682.

Subpart D—Within-Grade Increases

4. In § 531.401, paragraph (c) is revised to read as follows:

§ 531.401 Principal authorities.

* * * * *

(c) Section 5338 of title 5, United States Code, provides that ''The Office of Personnel Management may prescribe regulations necessary for the administration'' of General Schedule pay rates, including within-grade increases.

* * * * *

5. In § 531.403, the definition of *acceptable level of competence* is revised to read as follows:

§ 531.403 Definitions.

* * * * *

Acceptable level of competence means fully successful performance by an employee of the duties and responsibilities of his or her assigned position that warrants advancement of the employee's rate of basic pay to the next higher step of the grade or the next higher rate within the grade (as defined in this section) of his or her position, subject to the requirements of § 531.404 of this subpart.

* * * * *

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart A—Premium Pay

6. The authority citation for part 550, subpart A, is revised to read as follows:

Authority: 5 U.S.C. 5304 note, 5305 note, 5541(2)(iv), 5548, and 6101(c); E.O. 12748, 3 CFR 1991 Comp., p. 316.

7. In § 550.103, paragraph (o) is revised to read as follows:

§ 550.103 Definitions.

* * * * *

(o) *Sunday work* means nonovertime work performed by a full-time employee during a regularly scheduled daily tour of duty when any part of that daily tour of duty is on a Sunday. For any such tour of duty, not more than 8 hours of work are Sunday work, unless the employee is on a compressed work schedule, in which case the entire regularly scheduled daily tour of duty constitutes Sunday work.

* * * * *

8. Section 550.171 is revised to read as follows:

§ 550.171 Authorization of pay for Sunday work.

A full-time employee is entitled to pay at his or her rate of basic pay plus premium pay at a rate equal to 25 percent of his or her rate of basic pay for each hour of Sunday work (as defined in § 550.103(o)) and each hour that would be Sunday work but for the placement of the employee in paid leave or excused absence status.

[FR Doc. 95–15534 Filed 6–26–95; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

[Docket No. TB–95–08]

Tobacco Fees and Charges for Mandatory Inspection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Tobacco Inspection Act requires the Secretary to fix and collect fees and charges for inspection and certification, the establishment of standards, and other services, including administrative and supervisory costs, at designated tobacco auction markets in all tobacco producing areas. The fees collected must, as nearly as possible, cover the Department's costs of performing these services and also maintain a reserve sufficient to cover at least 4 months of operation. The present fee of $.0070 per pound has been in effect since July 11, 1991, and is no longer sufficient to recover the costs of operating this activity. This final rule increases the fee to $.0083 per pound to reflect increased program costs and replenish the operating reserve. This increase does not affect the fees for import, export, or permissive inspection.

EFFECTIVE DATE: June 27, 1995.

FOR FURTHER INFORMATION CONTACT: John P. Duncan III, Director, Tobacco Division, AMS, USDA, Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 205–0567.

SUPPLEMENTARY INFORMATION: Notice was given (60 FR 25624–25625, Friday, May 12, 1995) that the Department proposed to amend the regulations governing the fee charged for mandatory inspection and certification of producer tobacco sold at designated auction markets throughout the tobacco producing areas. The proposed amendment would increase the fees and charges assessed by the Department for providing inspection and certification of tobacco at designated auction markets, establishment of standards, and other services. The new fee would cover the increased cost of operating the program, including administrative and supervisory cost, and replenish the operating reserve which has been drawn down for several years to cover the difference between revenue and obligations and is now below the required level of 4 months. Authority for these regulations is contained in the Tobacco Inspection Act (7 U.S.C. 511–511q). Interested parties were given an opportunity to comment on the proposed rule.

A total of 21 comments was received; 17 comments—the majority of which came from individual producers supported the increase; 2 comments from organizations representing producers opposed the increase, and 2 comments—1 from an organization representing producers and 1 from an individual who expressed concern over increasing costs to producers and recommended the Department look for ways to operate more efficiently.

The Department conducts a yearly review of the financial status of this program to determine whether the fee is sufficient. At the end of the 1994–95 marketing season, obligations are estimated at $12,969,000 but revenues are expected to reach only $11,647,000 resulting in a loss of $1,322,000 and reducing the operating reserve to 3.8 months. At the current level of service and fee structure, obligations for the 1995–96 marketing season are estimated at $13,754,000 with revenue of $12,155,000 for a loss of $1,599,000 and a further reduction in the operating reserve to 2.2 months. If the same level of service and fee structure continues for the 1996–97 season, the estimated loss would exceed $2,000,000 and the operating reserve would fall below 1 month.

The major items affecting obligations are increases in salaries, benefits, travel cost and overall administrative costs in each year since 1991. Revenue depends on the amount of tobacco sold on the designated auction markets. Production quotas for flue-cured and burley were relatively stable for the 1992 and 1993 crops; fell sharply in 1994 and were unchanged for burley for 1995 but increased 16 percent for flue-cured. However, the cost of providing the service has continued to rise.

An analysis of available data indicated that a fee of $.0083 per pound effective for the 1995 crop would provide sufficient revenue to exceed obligations by $560,000 for the 1995–96 marketing season and bring the operating reserve up to 4 months.

Information on program income and expenses was presented to the National Advisory Committee for Tobacco Inspection Services at a meeting on January 19, 1995, in Lexington, Kentucky, and again on April 6, 1995, in Raleigh, North Carolina. The National Advisory Committee, consisting of 14 members representing tobacco producers, and appointed by the Secretary of Agriculture, was established by law in 1981 to advise the Secretary on the level of services needed and the fees necessary to cover those services. The Committee recommended that the level of services remain unchanged and that the fee be increased to $.0075 per pound.

In considering the Committee's recommendation and the comments opposing the increase, the Department notes that while a fee of $.0075 per pound will result in smaller losses for the 1995 and 1996 marketing years, the operating reserve will continue to fall and would be below 2 months at the end of the 1996 season.

In view of the comments received, and since neither the current fee of $.0070 or the recommended fee of $.0075 per pound will cover the cost of providing the requested service and provide an adequate reserve, the Department is implementing a fee of $.0083 per pound beginning with the 1995 marketing season.

This rule has been determined not significant for purposes of Executive Order 12866, and therefore has not been reviewed by the Office of Management and Budget.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Additionally, in conformance with the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) full consideration has been given to the potential economic impact upon small business. Most of the firms which would be affected by the rule are small businesses. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having gross annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The Administrator, Agricultural Marketing Service, has determined that this action would not have a significant economic impact on a substantial number of small entities. This rule would not substantially affect the normal movement of the commodity in the marketplace. Compliance with this rule would not impose substantial direct economic costs, recordkeeping, or personnel workload changes on small entities, and would not alter the market share or competitive positions of small entities relative to the large entities and would in no way affect normal

competition in the marketplace. Furthermore, the Department is required by law to fix and collect fees and charges to cover the Department's cost in operating the tobacco inspection program.

In addition, good cause has been found to make this rule effective less than 30 days after publication because it is necessary that the new fee be effective at the beginning of the marketing season which begins in mid-July. Therefore, in order to treat all types of tobacco on an equal basis, this final rule is made effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 29

Administrative practice and procedure, Advisory committees, Government publications, Imports, Pesticides and pests, Reporting and recordkeeping requirements, Tobacco.

For the reasons set forth in the preamble, the regulations at 7 CFR part 29 are amended as follows:

Part 29—Tobacco Inspection

1. The authority citation for part 29, subpart B continues to read as follows:

Authority: 7 U.S.C. 511m and 511r.

§ 29.123 [Amended]

2. In § 29.123 paragraph (a) is amended by removing the words ''$.0070 per pound'' and adding in its place ''$.0083 per pound.''

Dated: June 21, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–15625 Filed 6–26–95; 8:45 am]

BILLING CODE 3410–02–P

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. 93–058–1]

Tuberculosis in Cattle and Bison; State Designation

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations concerning the interstate movement of cattle and bison because of tuberculosis by raising the designation of Kansas from a modified accredited State to an accredited-free State. We have determined that Kansas meets the criteria for designation as an accredited-free State.

DATES: Interim rule effective June 27, 1995. Consideration will be given only to comments received on or before August 28, 1995.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 93–058–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 93–058–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Mitchell A. Essey, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, 4700 River Road Unit 36, Riverdale, MD 20737–1231, (301) 734–7727.

SUPPLEMENTARY INFORMATION:

Background

The ''Tuberculosis'' regulations, contained in 9 CFR part 77 (referred to below as ''the regulations''), regulate the interstate movement of cattle and bison because of tuberculosis. Bovine tuberculosis is the contagious, infectious, and communicable disease caused by *Mycobacterium bovis*. The requirements of the regulations concerning the interstate movement of cattle and bison not known to be affected with, or exposed to, tuberculosis are based on whether the cattle and bison are moved from jurisdictions designated as accredited-free States, modified accredited States, or nonmodified accredited States.

The criteria for determining the status of States (the term ''State'' is defined to mean any State, territory, the District of Columbia, or Puerto Rico) are contained in a document captioned ''Uniform Methods and Rules—Bovine Tuberculosis Eradication,'' which has been made part of the regulations via incorporation by reference. The status of States is based on the rate of tuberculosis infection present and the effectiveness of a tuberculosis eradication program. A State must have no findings of tuberculosis in any cattle or bison in the State for at least 5 years to be designated as an accredited-free State.

Before publication of this interim rule, Kansas was designated in § 77.1 of the regulations as a modified accredited State. However, Kansas now meets the requirements for designation as an accredited-free State. Therefore, we are amending the regulations by removing Kansas from the list of modified accredited States in § 77.1 and adding it to the list of accredited-free States in that section.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is warranted to change the regulations so that they accurately reflect the current tuberculosis status of Kansas as an accredited-free State. This will provide prospective cattle and bison buyers with accurate and up-to date information, which may affect the marketability of cattle and bison since some prospective buyers prefer to buy cattle and bison from accredited-free States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon publication in the **Federal Register**. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

Cattle and bison are moved interstate for slaughter, for use as breeding stock, or for feeding. There are 40,100 herds in Kansas with approximately 5,950,000 cattle and bison. Approximately 90 percent of the herd owners would be considered small businesses. Changing the status of Kansas may affect the marketability of cattle and bison from the State, since some prospective cattle and bison buyers prefer to buy cattle and bison from accredited-free States. This may result in some beneficial economic impact on some small entities. However, based on our experience in similar designations of other States, the impact should not be significant.

Under these circumstances, the Administrator of the Animal and Plant

Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

Accordingly, 9 CFR part 77 is amended as follows:

PART 77—TUBERCULOSIS

1. The authority citation for part 77 continues to read as follows:

Authority: 21 U.S.C. 111, 114, 114a, 115–117, 120, 121, 134b, and 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 77.1 [Amended]

2. In § 77.1, in the definition for ''Modified accredited state'', paragraph (2) is amended by removing ''Kansas,''.

3. In § 77.1, in the definition for ''Accredited-free state'', paragraph (2) is amended by adding ''Kansas,'' immediately before ''Kentucky,''.

Done in Washington, DC, this 20th day of June 1995.

Dale F. Schwindaman,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–15592 Filed 6–26–95; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–ANE–33; Amendment 39–9288; AD 95–13–08]

Airworthiness Directives; Pratt & Whitney Canada Model PT6A–67D Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Pratt & Whitney Canada (PWC) PT6A–67D turboprop engines, that currently requires inspections of the compressor turbine (CT) disk and blades for cracking and other irregularities using visual inspections and fluorescent penetrant inspections (FPI). That AD also requires amending the Beech Model 1900D Airplane Flight Manual (AFM) and installing a placard that alerts the pilot of a requirement to restrict continuous engine operation above 94.0% and below 97.1% N1 (Gas Generator RPM). In addition, that AD requires the installation of parts having an improved design including a CT stator assembly, a CT shroud housing, CT turbine blades, feather seals, and a small exit duct assembly . This amendment continues the requirements of the current AD and adds the requirements to remove the placard from the cockpit and to remove the amendment to the AFM after installation of the improved engine components. This amendment is prompted by reports from operators and the manufacturer stating that the engine RPM operating restriction is not required after installation of the improved engine components, and that this engine operating restriction can impact aircraft handling. The actions specified by this AD are intended to prevent aircraft handling problems due to imposition of the engine RPM restriction.

DATES: Effective July 12, 1995.

The incorporation by reference of certain publications listed in the regulations was approved by the Director of the Federal Register as of June 15, 1994.

Comments for inclusion in the Rules Docket must be received on or before August 28, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–33, 12 New England Executive Park, Burlington, MA 01803–5299.

The service information referenced in this AD may be obtained from . This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mark A. Rumizen, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7137, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: On May 16, 1994, the Federal Aviation Administration (FAA) issued airworthiness directive (AD) 94–10–02, Amendment 39–8909 (59 FR 25295, May 16, 1994), applicable to Pratt & Whitney Canada (PWC) PT6A–67D turboprop engines, to require deblading the compressor turbine (CT) disk; and inspecting the entire disk surface area and fir tree areas of the CT blades for cracking and the trailing edge of the blade airfoil section for irregularities, using visual inspections and fluorescent penetrant inspections (FPI). These inspections are required until installation of parts having an improved design turbine blades, feather seals, and a small exit duct assembly. That AD also requires amending the Beech Model 1900D Airplane Flight Manual (AFM) by inserting requirements that describe restricting continuous engine operation above 94.0% and below 97.1% N1 (Gas Generator RPM); and installing a placard that alerts the pilot of this restriction. That action was prompted by reports of CT blade failures due to high cycle fatigue (HCF) fractures in the fir tree area of the blade while exposed to normal engine vibrations and by the manufacturer developing new design improvements that will reduce the susceptibility of the CT blades to HCF damage. That condition, if not corrected, could result in aircraft handling problems due to imposition of the engine RPM restriction.

Since the issuance of that AD, operators of Beech 1900D aircraft and the manufacturer have stated that the engine RPM operating restriction is not required after installation of the improved engine components, and that the engine operating restriction can impact aircraft handling. The placard and AFM amendment currently restrict continuous engine operation above 94.0% and below 97.1% N1, where continuous operation is defined as time

periods exceeding 5 minutes. In some situations, this restriction could require the pilot to adjust the engine power level during critical flight segments, such as takeoff, thus increasing pilot workload. Therefore, this superseding AD repeats the compliance requirements of the current AD, and adds the requirement to remove the placard from the cockpit and remove the amendment to the AFM after installation of the improved engine components.

This engine model is manufactured in Canada and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

PWC has issued Service Bulletin (SB) No. 14128, Revision 3, dated April 19, 1993, that specifies procedures for CT blade inspections; SB No. 14132, Revision 1, dated May 12, 1993, that specifies procedures for CT stator vane replacement; and SB 14142, Revision 1, dated May 12, 1993, that specifies procedures for CT blade replacement. Transport Canada classified these service bulletins as mandatory and issued AD CF–92–25–R1, dated June 1, 1993, in order to assure the airworthiness of these PWC PT6A–67D engines in Canada.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of this same type design, this AD supersedes AD 94–10–02 to continue the requirements of the current AD and add the requirements to remove the placard from the cockpit and to remove the amendment to the AFM after installation of the improved engine components. The actions are required to be accomplished in accordance with the SB's described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–ANE–33.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–8909, (59 FR 25295, May 16, 1994), and by adding a new airworthiness directive, Amendment 39–9288, to read as follows:

95–13–08 Pratt & Whitney Canada: Amendment 39–9288. Docket 95–ANE–33. Supersedes AD 94–10–02, Amendment 39–8909.

Applicability: Pratt & Whitney Canada (PWC) Model PT6A–67D turboprop engines with serial numbers prior to PC–E114100, installed on but not limited to Beech Model 1900D airplanes.

Note: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (o) to request approval from the Federal Aviation Administration (FAA). This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent aircraft handling problems due to imposition of the engine RPM restriction, accomplish the following:

(a) For those operators that have previously complied with AD 94–10–02, this AD requires compliance with only paragraph (n).

(b) Prior to further flight, amend the Beech Model 1900D Aircraft Flight Manual (AFM), Part Number (P/N) 129–590000–3, by inserting the following requirements between pages 2–4 and 2–5:

''ENGINE OPERATING LIMITATIONS

Gas Generator RPM (N1)—Continuous operation of the gas generator between 94.0% and 97.1% is prohibited.

Notes

1. This limitation does not prohibit the use of N1's between 94.0% and 97.1% when the pilot in command determines that the power setting is required for the safe operation of the airplane. If such occurrences exceed 5 minutes, the engine(s) must be inspected in accordance with Pratt & Whitney Canada Service Bulletin No. 14128, Revision 3, dated April 19, 1993.

2. This limitation does not prohibit the use of static Take-Off Power and Maximum Continuous Power between 94.0% and 97.1% N1 to meet the required Take-Off performance. If such occurrences exceed 5 minutes, the engine(s) must be inspected in accordance with Pratt & Whitney Canada Service Bulletin No. 14128, Revision 3, dated April 19, 1993.

3. Operation at 94.0% and below, and at 97.1% and above are permitted. Continuous operation at 94.1% through 97.0% is prohibited.

4. ''Continuous Operation'' means time periods exceeding 5 minutes.

5. High Speed Cruise Power Tables found in the Pilot's Operating Manual may produce N1's in the prohibited range. Flights should be planned using Intermediate or Long Range Power settings.

6. The goal of the operator should be to keep the total time of operation in the prohibited range to the absolute minimum, since the effects of operating between N1's of 94.0% and 97.1% are cumulative.

PLACARDS

Located in front of the pilot on the aft edge of the glareshield between the Master Caution annunciator and the fire extinguisher control switch:

CONTINUOUS OPERATION BETWEEN 94.0% AND 97.1% N1 IS PROHIBITED SEE AFM''

(c) Compliance with the requirements of paragraph (b) of this AD may also be accomplished by inserting a copy of this AD into the Beech Model 1900D AFM.

(d) Prior to further flight, install the placard as specified in paragraph (b) of this AD.

(e) For engines that have not been inspected prior to the effective date of this AD in accordance with PWC SB No. 14128, Revision 1, dated November 13, 1992, or debladed and inspected in accordance with PWC SB No. 14128, Revision 2, dated December 22, 1992, or PWC SB No. 14128, Revision 3, dated April 19, 1993, accomplish the following:

(1) For engines with Serial Numbers PC-E114001 to PC-E114044, within 25 hours time in service (TIS) after the effective date of AD 94–10–02, June 15, 1994, deblade the CT disk, inspect the entire disk surface area and fir tree area of the CT blades for cracking and the trailing edge of the blade airfoil section for irregularities, and replace, if necessary, with serviceable parts, in accordance with the Accomplishment Instructions of PWC SB No. 14128, Revision 3, dated April 19, 1993.

(2) For engines with Serial Numbers PC–E114045 to PC–E114099, within 50 hours TIS after the effective date of AD 94–10–02, June 15, 1994, deblade the CT disk, inspect the entire disk surface area and fir tree area of the CT blades for cracking, and replace, if necessary, with serviceable parts, in accordance with the Accomplishment Instructions of PWC SB No. 14128, Revision 3, dated April 19, 1993.

(f) For engines that have been inspected in accordance with PWC SB No. 14128, Revision 1, dated November 13, 1992, prior to the effective date of this AD, deblade the CT disk, inspect the entire disk surface area and fir tree area of the CT blades for cracking, and replace, if necessary, with serviceable parts, in accordance with the Accomplishment Instructions of PWC SB No. 14128, Revision 3, dated April 19, 1993, as follows:

(1) For blade sets with greater than 600 hours TIS since new on the effective date of AD 94–10–02, June 15, 1994, deblade, inspect, and replace, if necessary, within the next 50 hours TIS after the effective date of AD 94–10–02, June 15, 1994.

(2) For blade sets with greater than or equal to 250 hours TIS, and less than or equal to 600 hours TIS, since new, on the effective date of AD 94–10–02, June 15, 1994, deblade, inspect, and replace, if necessary, within the next 100 hours TIS after the effective date of AD 94–10–02, June 15, 1994.

(3) For blade sets with less than 250 hours TIS since new on the effective date of AD 94–10–02, June 15, 1994, deblade, inspect, and replace, if necessary, within the next 250 hours TIS after the effective date of AD 94–10–02, June 15, 1994.

(g) For uninstalled CT disk and blade assemblies that have not been inspected in accordance with the Accomplishment Instructions of PWC SB No. 14128, Revision 2, dated December 22, 1992, or PWC SB No. 14128, Revision 3, dated April 19, 1993, in the preceding 250 hours TIS from the effective date of AD 94–10–02, June 15, 1994, deblade the CT disk, inspect the entire disk surface area and fir tree area of CT blades for cracking, and replace, if necessary, with serviceable parts, in accordance with the Accomplishment Instructions of PWC SB No. 14128, Revision 3, dated April 19, 1993, prior to installation.

(h) For engines with CT disk and blade assemblies that have been debladed and inspected in accordance with the Accomplishment Instructions of PWC SB No. 14128, Revision 2, dated December 22, 1992, or PWC SB No. 14128, Revision 3, dated April 19, 1993, prior to the effective date of AD 94–10–02, June 15, 1994, within 250 hours TIS since the last deblading and inspection, deblade the CT disk, inspect the entire disk surface area and fir tree area of CT blades for cracking, and replace, if necessary, with serviceable parts, in accordance with the Accomplishment Instructions of PWC SB No. 14128, Revision 3, dated April 19, 1993.

(i) For CT disk and blade assemblies that have been debladed and inspected in accordance with paragraphs (e), (f), (g), and (h) of this AD, deblade the CT disk, reinspect the entire disk surface area and fir tree area of CT blades for cracking, and replace, if necessary, with serviceable parts, in accordance with the Accomplishment Instructions of PWC SB No. 14128, Revision 3, dated April 19, 1993, at intervals not to exceed 250 hours TIS since the last deblading and inspection performed in accordance with the Accomplishment Instructions of PWC SB No. 14128, Revision 3, dated April 19, 1993.

(j) Install a CT stator assembly, a CT shroud housing, and a small exit duct assembly in accordance with PWC SB No. 14132, Revision 1, dated May 12, 1993, at the next shop visit after the effective date of this AD, or within 30 days after the effective date of this AD, whichever occurs first.

(k) Install CT blades and feather seals in accordance with PWC SB No. 14142, Revision 1, dated May 12, 1993, at the next shop visit after the effective date of this AD, or 30 days after the effective date of this AD, whichever occurs first.

(l) For the purpose of this AD, a shop visit is defined as when major engine flanges are separated.

(m) Installation of improved hardware in accordance with paragraphs (j) and (k) of this AD constitutes terminating action for the inspections required by paragraphs (e) through (i) of this AD.

(n) For aircraft equipped with engines that have complied with paragraphs (j) and (k) of this AD, or AD 94–10–02, accomplish the following:

(1) Remove the amendment to the Beech Model 1900D AFM, P/N 129–590000–3, described in paragraphs (b) or (c) of this AD.

(2) Remove the placard described in paragraph (d) of this AD.

(o) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative method of compliance with this AD, if any, may be obtained from the Engine Certification Office.

(p) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(q) The inspections and modifications shall be done in accordance with the following SB's:

Document No.	Pages	Revision	Date
PWC SB No. 14128 ..... Total pages: 5.	1–5	3	April 19, 1993.
PWC SB No. 14132 ..... Total pages: 6.	1–6	1	May 12, 1993.
PWC SB No. 14142 ..... Total pages: 7.	1–7	1	May 12, 1993.

This incorporation by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pratt & Whitney Canada, 1000 Marie-Victorin, Longueil, Quebec, Canada J4G 1A1. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

(r) This amendment becomes effective on July 12, 1995.

Issued in Burlington, Massachusetts, on June 15, 1995.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 95–15558 Filed 6–23–95; 10:11 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 92–AWA–6]

Alteration of the Charlotte Class B Airspace Area; North Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: On May 17, 1995, the Federal Aviation Administration (FAA) published a final rule altering the Class B airspace area at Charlotte, NC. This action delays the effective date of the final rule to coincide with the scheduled publication date of the appropriate aeronautical chart.

EFFECTIVE DATE: Effective on publication. The effective date of the final rule at 60 FR 26594 is delayed until 0901 UTC, August 17, 1995.

FOR FURTHER INFORMATION CONTACT: Patricia P. Crawford, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9255.

SUPPLEMENTARY INFORMATION: On May 17, 1995, the FAA published a final rule altering the Charlotte, NC, Class B airspace area (60 FR 26594) with an effective date of July 20, 1995. This action delays the effective date for the final rule to August 17, 1995, to coincide with the scheduled publication date of the appropriate aeronautical chart.

Because the public needs to be aware of the postponement immediately, notice and public procedure are impracticable and good cause exists for making postponement effective in less than 30 days.

Correction of Final Rule

In consideration of the foregoing, effective on the date of this publication, the effective date of Airspace Docket No. 92–AWA–6 altering the Charlotte, NC, Class B airspace area (60 FR 26594; May 17, 1995); is delayed from 0701 UTC, July 20, 1995, to 0901 UTC, August 17, 1995.

Issued in Washington, DC, on June 13, 1995.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 95–15714 Filed 6–26–95; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 71

[Airspace Docket No. 95–ASO–10]

Amendment to Class E Airspace; Memphis, TN

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment modified the Class E airspace area at Memphis, TN, to accommodate a VOR RWY 16 Standard Instrument Approach Procedure (SIAP) for the General DeWitt Spain Airport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for instrument flight rules (IFR) operations at the airport. The operating status of the airport will change from VFR to include IFR operations concurrent with the publication of the SIAP.

EFFECTIVE DATE: 0901 UTC, September 14, 1995.

FOR FURTHER INFORMATION CONTACT: Stanley Zylowski, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

History

On April 10, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by modifying Class E airspace at Memphis, TN (60 FR 18038). This action would provide adequate Class E airspace for IFR operations at General DeWitt Spain Airport. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Designations for Class E airspace extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies Class E airspace at Memphis, TN, to accommodate a VOR RWY 16 SIAP and for IFR operations at the General DeWitt Spain Airport. The operating status of the airport will change from VFR to include IFR operations concurrent with publication of the SIAP.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it

is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subject in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, effective September 16, 1994, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet Above the Surface of the Earth

* * * * *

ASO TN E5 Memphis, TN

Memphis International Airport, TN
(Lat. 35°02′45″ N, long. 89°58′41″ W)
Twinkle Town Airport
(Lat. 34°56′00″ N, long. 90°10′00″ W)
Olive Branch Airport
(Lat. 34°58′44″ N, long. 89°47′13″ W)
West Memphis Municipal Airport
(Lat. 35°08′11″ N, long. 90°14′04″ W)
General DeWitt Spain Airport
(Lat. 35°12′05″ N, long. 90°03′05″ W)
Elvis NDB
(Lat. 34°57′13″ N, long. 89°58′26″ W)
West Memphis NDB
(Lat. 35°08′22″ N, long. 90°13′57″ W)

That airspace extending upward from 700 above the surface within an 8-mile radius of Memphis International Airport, and within 4 miles each side of the 179° bearing from the Elvis NDB extending from the 8-mile radius to 7 miles south of the NDB, and within a 6.5-mile radius of Twinkle Town Airport, and within a 7.5-mile radius of Olive Branch Airport, and within a 6.5-mile radius of West Memphis Municipal Airport, and within 2.5 miles each side of the 198° and 352° bearings from the West Memphis NDB extending from the 6.5-mile radius to 7.4 miles north and south of the NDB, and within a 6.4-mile radius of General DeWitt Spain Airport; excluding that airspace within the Millington, TN Class E Airspace Area.

* * * * *

Issued in College Park, Georgia, on June 14, 1995.

Stanley Zylowski,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 95–15717 Filed 6–26–95; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 95–ASO–4]

Amendment to Class E Airspace; Smithfield, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the airspace description and the geographic position coordinates of a final rule that was published in the **Federal Register** on April 27, 1995, Airspace Docket No. 95–ASO–4. The description as published in the Federal Register on April 27, 1995, inadvertantly states that the airspace extends upward from the surface instead of from 700 feet above the surface, and incorrectly depicts the latitude of the Jnall NDB as 35°26′25″ instead of 35°36′25″.

EFFECTIVE DATE: 0901 UTC, July 20, 1995.

FOR FURTHER INFORMATION CONTACT: Stanley Zylowski, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 95–10390, Airspace Docket No. 95–ASO–4, published on April 27, 1995 (60 FR 20623), modified Class E airspace at Smithfield, NC, to provide adequate Class E airspace for IFR operations at Johnston County Airport. The description as published in the **Federal Register** on April 27, 1995, inadvertantly states that the airspace extends upward from the surface instead of from 700 feet above the surface, and incorrectly depicts the latitude of the Jnall NDB as 35°26′25″ instead of 35°36′25″. This action corrects these errors.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the airspace description and the geographic position coordinates for the Class E airspace area at Smithfield, NC, as published in the **Federal Register** on April 27, 1995 (60 FR 20623), (Federal Register Document 95–10390; page 20623, column 3), and the description in FAA Order 7400.9B, which is incorporated by reference in 14 CFR 71.1, are corrected as follows:

§ 71.7 [Corrected]

* * * * *

ASO NC E5 Smithfield, NC [Corrected]

Johnston County Airport, NC
(Lat. 35°32′27″ N, long. 78°23′25″ W)
Jnall NDB
(Lat. 35°36′25″ N, long. 78°21′16″ W)

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Johnston County Airport and within 2.4 miles each side of the 024° bearing from the Jnall NDB, extending from the 7.5-mile radius to 7 miles northeast of the NDB.

* * * * *

Issued in College Park, Georgia, on June 9, 1995.

Stanley Zylowski,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 95–15716 Filed 6–26–95; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 93–ASO–20]

Establishment of Class E Airspace, Cocoa, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes Class E airspace at Cocoa, FL. A NDB RWY 11 Standard Instrument Approach Procedure (SIAP) has been developed for Merritt Island Airport. Controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for instrument flight rules (IFR) operations at the airport. The operating status of the airport will change from VFR to include IFR operations concurrent with publication of the SIAP.

EFFECTIVE DATE: 0901 UTC, September 14, 1995.

FOR FURTHER INFORMATION CONTACT: Stanley Zylowski, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

History

On October 26, 1993, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E airspace at Cocoa, FL, (58 FR 57570). This action

will provide adequate Class E airspace for IFR operations at Merritt Island Airport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Designations for Class E airspace extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace at Cocoa, FL, to accommodate at NDB RWY 11 SIAP and for IFR operations at Merritt Island Airport. The operating status of the airport will be changed from VFR to include IFR operations concurrent with publication of the SIAP.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet Above the Surface of the Earth

* * * * *

ASO FL E5 Cocoa FL [New]

Merritt Island Airport, FL
(Lat 28°20′30″N, long. 80°41′08″W)
Merritt Island NDB
(Lat 28°20′27″N, long. 80°41′18″W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Merritt Island Airport and within 2.5 miles each side of the 127° bearing from the Merritt Island NDB, extending from the 6.3-mile radius to 7 miles northeast of the NDB; excluding that airspace within the Titusville, FL, and Melbourne, FL, Class E airspace areas.

* * * * *

Issued in College Park, Georgia, on June 16, 1995.

Stanley Zylowski,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 95–15715 Filed 6–26–95; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 189

[Docket Nos. 82P–0371 and 91N–0165]

Lead-Soldered Food Cans

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its food additive regulations to prohibit the use of lead solder to manufacture cans for packaging foods. FDA concludes that the available toxicological and exposure data for lead demonstrate that the use of lead solder to manufacture cans for packaging food may be injurious to the public health, particularly that of fetuses, infants, and children. This final regulation also responds to a citizen petition requesting that the agency require that warning labels be placed on food cans that contain lead solder.

DATES: *Effective*: December 27, 1995. Written objections and requests for a hearing by July 27, 1995. Compliance date for affected products initially introduced or initially delivered for introduction into interstate commerce is December 27, 1995. Existing stocks of lead-soldered canned foods will be allowed to be offered for sale until June 27, 1996, so long as the level of lead in the food packaged in such cans is not such that the food may be rendered injurious to health.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Sandra L. Varner, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3093.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 21, 1993 (58 FR 33860), FDA published a proposal to prohibit the use of lead solder to manufacture food cans. The proposal was in response to the agency's determination that: (1) The current daily dietary lead intakes of infants and children approach or may exceed the provisional total tolerable intake level (PTTIL) that the agency has established for lead for these population groups; (2) the use of lead solder in food cans adds lead to food which may render it injurious to health, particularly that of fetuses, infants, and children; and (3) lead solder is not required to manufacture food cans and can be avoided. Therefore, the agency proposed not to codify in its regulations the prior sanction for lead solder used in food cans but to prohibit this use.

In a notice published in the **Federal Register** of April 1, 1993 (58 FR 17233), the agency announced emergency action levels for lead in food packaged in lead-soldered cans. These action levels are an interim measure to protect infants and young children from adverse effects that could result from regular consumption of foods packaged in lead-soldered cans, pending completion of the rulemaking to prohibit the use of lead solder in food cans. After the 1-year period allowed for sale of existing stocks of lead-soldered canned foods, these emergency action levels will no longer be needed and will be considered as withdrawn by the agency.

This final rule amends the food additive regulations to prohibit the use of lead solder in cans to package food. In addition, with completion of this rulemaking, FDA is responding to a citizen petition requesting that the agency require warning labels on food

cans that contain lead solder, because the ban on the use of lead solder in food cans renders the labeling issue moot.

II. Discussion of Comments

In response to the notice of proposed rulemaking to prohibit the use of lead solder in food cans, FDA received eight comments. The comments were from a labor union, a State Government, an individual, two nonprofit public interest organizations, and three trade associations representing the can manufacturing industry, the food industry, and the Danish meat-canning industry.

One comment agreed that documentation clearly supports FDA's finding that a prior sanction exists for lead solder used in metal food packaging. All eight comments supported FDA's proposal to prohibit the use of lead solder in cans that are used to hold food. One comment submitted economic data on the cost to Danish meat canners of switching to other canning technologies. This comment is discussed in section IV. of this document. Other issues raised by the comments, and the agency's responses to them, are set forth below.

1. One comment stated that lead solder is incorrectly described in the proposed regulation as being ''* * * used in the construction of the metal ends of food cans.'' The comment explained that, although lead solder was historically used to seal both the end and side seams of metal cans, current production of lead-soldered containers involves use of lead solder only to seal side seams of the container. The comment suggested that the regulation state that ''Lead solders * * * are used in the construction of the side seams of food cans.''

The agency agrees that the language in the regulation should be clarified. However, even though lead solder is currently used to seal only side seams of containers, FDA is prohibiting all uses of lead solder in food cans. Therefore, FDA is modifying the regulation to read: ''Lead solders are alloys of metals that include lead and are used in the construction of metal food cans.'' This language clarification does not affect the intent or scope of the regulation.

2. One comment disagreed with language in the June 21, 1993, proposed rule, characterizing the agency's proposed action to ban the use of lead solder in food cans as a proposal to ''revoke'' the prior sanction for this use of lead solder. The comment contended that although §§ 181.1(b) and 181.5(c) (21 CFR 181.1(b) and 181.5(c)) provide that the agency may prohibit the use of a prior-sanctioned ingredient if scientific data or information show that use of the ingredient may be injurious to health, the agency cannot ''revoke'' a prior sanction. The comment stated that a prior sanction for the use of a food ingredient is based solely on its recognized use prior to enactment of the Food Additives Amendment of 1958 (to the Federal Food, Drug, and Cosmetic Act (the act)), and that revocation of a prior sanction is inconsistent with the meaning and intent of the law.

FDA considers the comment to be making a semantic point that ultimately has no effect on the agency's action. As the comment recognizes, FDA's regulations in § 181.1(b) provide that if scientific data or information show that use of a prior-sanctioned food ingredient may be injurious to health, and thus is in violation of section 402 of the act (21 U.S.C. 342), FDA can prohibit use of the ingredient in food. If the agency prohibits use of a prior-sanctioned food ingredient, this action has the effect of revoking the prior sanction for that use of the ingredient.

Further, § 181.5(c) states that known prior sanctions for food ingredients shall be the subject of a regulation, and that this regulation may be revoked to prohibit use of the ingredient to prevent adulteration of food in violation of section 402 of the act. If a regulation for the prior-sanctioned use of a food ingredient is revoked to prevent such adulteration, the prior sanction for that use is in effect also revoked.

Thus, the agency believes that revocation of a prior-sanctioned use is consistent with the intent of the regulations and the act. To disagree with this conclusion is tantamount to saying that FDA does not have the authority to determine whether a food ingredient can be used safely. This is obviously not true.

3. One comment requested that the effective date for the ban on the introduction or delivery for introduction of lead-soldered canned foods into interstate commerce be extended to 24 months after publication of a final rule in the **Federal Register**. The comment requested the extension to allow conversion of the meat can soldering lines in Denmark to other canning technologies. The comment estimated that the conversion of the meat can lines would be completed by the end of 1995.

The effective date for banning the use of lead solder in food cans, that FDA proposed in the document published in the **Federal Register** of June 21, 1993 (58 FR 33860), was based on a recognition that it might take some time for the domestic and foreign food industries to convert their equipment. However, the agency's primary concern in establishing an effective date for this action is the protection of the public health. As stated in the June 21, 1993, proposed rule, FDA has determined that there is a need to control dietary lead intake, especially for fetuses, infants, and children, because exposure to very low lead levels has been associated with adverse health effects. The current daily dietary lead intakes of infants and children approach or may exceed the PTTIL that the agency has established for lead for these population groups. (Lead levels that exceed the PTTIL are likely to result in adverse health effects.) The use of lead solder in food cans adds lead to food, and available toxicological and exposure data establish that the lead may render the food injurious to health and, therefore, adulterated under section 402(a)(1) of the act. Further, lead solder is not required to manufacture food cans, and therefore, its use is avoidable.

Over the years, the agency has expressed its concern about dietary exposure to lead resulting from the use of lead-soldered cans for food. In the 1970's, the agency worked with the evaporated milk industry, the infant food industry, and manufacturers of juices for infants to establish voluntary quality assurance programs to reduce the levels of lead in their canned products. These efforts were discussed in an advanced notice of proposed rulemaking (ANPRM) published in the **Federal Register** of August 31, 1979 (44 FR 51233). In this ANPRM, FDA also announced its intent to establish action levels for food packaged in lead-soldered cans. The agency's goal was to reduce the dietary lead intake resulting from use of lead-soldered food cans by at least 50 percent within 5 years.

FDA has been in direct contact with foreign countries, including Denmark, that might export food in lead-soldered cans to the United States. Beginning in mid-1990, the agency sent letters to over 65 nations, reminding U.S. trading partners that FDA has made efforts over the past two decades to reduce the levels of lead in the U.S. food supply, and that U.S. food manufacturers were voluntarily discontinuing the use of lead solder in cans for packaging food. The agency also said that it was concerned about dietary lead exposure from lead-soldered canned foods imported from other countries. The agency has also held numerous discussions at world forums over the past few years regarding the need to reduce dietary exposures to lead, particularly that resulting from use of lead-soldered cans for food.

At a meeting held on July 7, 1992, the Mexican Government informed FDA that its food industry intended to eliminate use of lead-soldered cans by October, 1992. (In a followup letter dated June 8, 1993, the agency was informed that 90 percent of Mexican can manufacturers do not use lead solder (Ref. 1).) In response to our letters of 1990 and 1991 sent to U.S. trading partners, Brazil projected that lead-soldered cans would not be used in that country by early 1991 (Ref. 2). Information received from Poland (Ref. 3) and Guatemala (Ref. 4) indicated that their food industries were intending to convert to nonlead packaging in 1992. The Hungarian Government estimated that no foods would be packaged in lead-soldered cans in its country by the end of 1993, at the latest (Ref. 5).

Thus, through cooperative programs with food industries, notices and proposed rules published in the **Federal Register**, letters to foreign nations, and discussions held at world forums, FDA has provided adequate notice of its concerns about the use of lead solder in cans used for food. In addition, U.S. food manufacturers have already eliminated use of lead solder in cans for food, and several foreign governments have stated that their food industries intended to discontinue use of lead-soldered cans by the end of 1993, at the latest. The agency therefore concludes that the effective date of 6 months after the publication of a final rule for the ban on the use of lead solder in food cans is achievable and equitable. The agency also notes that, given the date of publication of this final rule, the ban will not be effective any earlier than the beginning of 1996. This timeframe coincides with the time in which the comment predicted that conversion of the meat can lines in Denmark would be completed.

Based on the above considerations, in particular the need to protect the public health, the agency concludes that the effective date for the final rule prohibiting the use of lead solder in food cans from being introduced or delivered for introduction into interstate commerce should not be extended to 24 months after publication of a final rule in the **Federal Register**, as requested by the comment.

4. One comment from a trade association supported FDA's proposal to prohibit foods in lead-soldered cans from being introduced or delivered for introduction into interstate commerce 6 months after publication in the **Federal Register** of a final rule on this action and to allow existing stocks of lead-soldered canned foods to be offered for sale within 1 year of the date of publication of the final rulemaking. The comment stated that if the 6-month effective date applies to initial introduction or initial delivery for introduction into interstate commerce, the proposed effective dates are equitable for both domestic and foreign food manufacturers.

The agency confirms that the 6-month effective date is applicable to initial introduction and initial delivery for introduction into interstate commerce of foods in lead-soldered cans. Based on this comment and the issues raised in addressing comment 3 above, the agency concludes that the ban on the initial introduction and initial delivery for introduction into interstate commerce of foods in lead-soldered cans should be effective 6 months after publication of a final rule in the **Federal Register**, and that existing stocks of lead-soldered canned foods should be allowed to be offered for sale within 1 year of the date of publication of the final rulemaking, so long as the level of lead in the food packaged in such cans is not such that the food may be rendered injurious to health. Guidance on the level of lead in food that may render the food injurious to health is provided by the emergency action levels, that were announced in the April 1, 1993, notice, of 80 micrograms per kilogram (80 parts per billion (ppb)) for lead in fruit beverages packed in lead-soldered cans and 250 ppb for all other foods packed in lead-soldered cans.

III. Environmental Impact

The agency has previously considered the environmental effects of this rule as announced in the proposed rule published in the **Federal Register** of June 21, 1993. No new information or comments have been received that would affect the agency's previous determination that prohibiting the use of lead solder in food cans will not have a significant impact on the human environment, and that an environmental impact statement is not required.

IV. Economic Impact and Comment on the Economic Issues Raised in the June 21, 1993, Proposed Rule

FDA has examined the economic impacts of this final rule to amend the food additive regulations to prohibit the use of lead solder to manufacture cans that contain food, as required by Executive Order 12866 and the Regulatory Flexibility Act. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives, and when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). The Regulatory Flexibility Act (Pub. L. 96–354) requires analyzing options for regulatory relief for small businesses.

FDA finds that this final rule is not a significant regulatory action as defined by Executive Order 12866. In compliance with the Regulatory Flexibility Act, the agency certifies that the final rule will not have a significant impact on a substantial number of small businesses.

The June 21, 1993, proposed rule included an analysis of the economic impact of the proposed ban on the use of lead-soldered food cans under the previous Executive Order (E.O. 12291). FDA determined that this rule would result in little or no additional cost to domestic can manufacturers and food processors. In addition, the agency estimated that the one-time, upper-bound cost for foreign countries, that export lead-soldered canned foods to the United States, to convert to cans without lead solder would be from $33 million to $70 million. The total benefit gained from the reduction in blood lead levels resulting from the ban on the use of lead-soldered food cans was estimated to be $80 million for the next 20 years (discounted at a 6 percent interest rate).

The agency received one comment on the June 21, 1993, proposed rule that supplied data on the cost to Danish meat canners of switching from lead-soldered cans to other canning technologies. The agency's evaluation of the data submitted is set forth below:

5. The comment from the Danish meat-canning industry estimated that the conversion of the meat-can soldering lines in Denmark to other canning technologies would cost approximately 30 million Danish kroner (approximately $4.4 million using the exchange rate quoted in the *Washington Post* of November 24, 1993). As discussed in comment three above, this industry also requested that the effective date for the ban on the initial introduction or delivery for introduction of lead-soldered food cans into interstate commerce be extended to 24 months after publication of a final rule in the **Federal Register**. The comment stated that meat packaged in large cans is wrapped in a plastic bag inside the can, which would effectively inhibit lead migration into the meat.

FDA analyzed the economic impact of the request to extend the effective date for the ban on the use of lead-soldered food cans and determined that granting an extension to Danish canned meat exporters would not be necessary

because the effective date of the ban and the requested date coincide. Because FDA's estimate of the one-time, upper-bound cost for the conversion of canning lines in foreign countries was so broad ($33 million to $70 million), the cost information supplied by the Danish industry would not significantly alter the previous estimate.

V. Conclusions

FDA finds that a prior sanction exists for the use of lead solder in food cans. However, the available toxicological and exposure data on lead demonstrate that this use of lead solder may be injurious to the public health, particularly that of fetuses, infants, and children. Therefore, the agency is not codifying in its regulations the prior sanction for lead solder used in food cans and is instead amending its food additive regulations to prohibit this use of lead solder.

For clarification, FDA is modifying the language in proposed § 189.240(a) to read ''Lead solders are alloys of metals that include lead and are used in the construction of metal food cans.''

The ban on the initial introduction and initial delivery for introduction into interstate commerce of foods in lead-soldered cans will be effective 6 months after publication in the **Federal Register** of a final rule on this action. Existing stocks of lead-soldered canned foods will be allowed to be offered for sale within 1 year of the date of publication of the final rulemaking, so long as the level of lead in the food packaged in such cans is not such that the food may be rendered injurious to health.

FDA has now responded to a citizen petition (Docket No. 82P–0371/CP) requesting that the agency require warning labels on food cans that contain lead solder because the labeling issue will be moot with completion of this rulemaking.

VI. Objections

Any person who will be adversely affected by this regulation may at any time on or before July 27, 1995, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

VII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Letter from Mercedes Juan (Secretariat of Health, Mexico) to Jane E. Henney (FDA), dated June 3, 1993.

2. Letter from Myrna Sabino (Secretariat of Health, Brazil) to Jerry A. Burke (FDA), dated August 9, 1990.

3. Letter from Kazimierz Karlowski (National Institute of Hygiene, Poland) to Jerry A. Burke (FDA), dated December 21, 1990.

4. Letter from Alberto Rodas Maltez (Alimentos Kern, Guatemala) to Economics Staff (FDA), dated April 24, 1991.

5. Letter from Judith Sohar (National Institute of Food-Hygiene, Hungary) to Jerry A. Burke (FDA), dated September 26, 1990.

List of Subjects in 21 CFR Part 189

Food ingredients, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 189 is amended as follows:

PART 189—SUBSTANCES PROHIBITED FROM USE IN HUMAN FOOD

1. The authority citation for 21 CFR part 189 continues to read as follows:

Authority: Secs. 201, 402, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 371).

2. New § 189.240 is added to subpart C to read as follows:

§ 189.240 Lead solders.

(a) Lead solders are alloys of metals that include lead and are used in the construction of metal food cans.

(b) Food packaged in any container that makes use of lead in can solder is deemed to be adulterated in violation of the Federal Food, Drug, and Cosmetic Act, based upon an order published in the **Federal Register** of June 27, 1995.

Dated: June 17, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–15593 Filed 6–26–95; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Parts 510 and 522

Animal Drugs, Feeds, and Related Products; Xylazine Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Chanelle Pharmaceuticals Manufacturing Ltd. The ANADA provides for intravenous and intramuscular use of xylazine injection in horses and intramuscular use in *Cervidae* spp. to produce sedation accompanied by a shorter period of analgesia.

EFFECTIVE DATE: June 27, 1995.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center For Veterinary Medicine (HFV–114), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1617.

SUPPLEMENTARY INFORMATION: Chanelle Pharmaceuticals Manufacturing Ltd., Loughrea, County Galway, Ireland, filed ANADA 200–139 which provides for intravenous and intramuscular use of Chanazine® (100 milligrams/milliliter (mg/mL)) Injectable (xylazine hydrochloride equivalent to 100 mg xylazine per mL) in horses and intramuscular use in *Cervidae* spp. (fallow deer, mule deer, Sika deer, white-tailed deer, and elk) to produce sedation accompanied by a shorter period of analgesia. The drug is limited to use by or on the order of a licensed veterinarian.

Approval of ANADA 200–139 for Chanelle's Chanazine® (xylazine 100 mg/mL) Injectable is as a generic copy of Miles' NADA 047–956 for Rompun® (xylazine 100 mg/mL) Injectable. The ANADA is approved as of May 16, 1995, and the regulations are amended by revising 21 CFR 522.2662(b) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In addition, Chanelle Pharmaceuticals Manufacturing Ltd. has not previously been listed in the animal drug regulations as the sponsor of an approved application. At this time, 21 CFR 510.600(c) is amended to add entries for the firm.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

2. Section 510.600 is amended in the table in paragraph (c)(1) by alphabetically adding a new entry for ''Chanelle Pharmaceuticals Manufacturing Ltd.,'' and in the table in paragraph (c)(2) by numerically adding a new entry for ''061651'' to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Chanelle Pharmaceuticals Manufacturing Ltd., Loughrea, County Galway, Ireland.	061651
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
*	* * * * *
061651	Chanelle Pharmaceuticals Manufacturing Ltd., Loughrea, County Galway, Ireland

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

4. Section 522.2662 is amended by revising the first sentence in paragraph (b) to read as follows:

§ 522.2662 Xylazine hydrochloride injection.

* * * * *

(b) *Sponsor.* See 000856 and 061651 in § 510.600(c) of this chapter for use as horses, wild deer, and elk. * * * * * * * * * *

Dated: June 15, 1995.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 95–15594 Filed 6–26–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–206]

Kentucky Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving, with two exceptions, an amendment to the Kentucky regulatory program (hereinafter referred to as the ''Kentucky program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions to the Kentucky Revised Statutes (KRS) pertain to remining, permits, definitions, appeal rights, water replacement, and permit revisions. The amendment is intended to revise the Kentucky program to be consistent with SMCRA.

EFFECTIVE DATE: June 27, 1995.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office, OSM, 2675 Regency Road, Lexington, Kentucky 40503. Telephone: (606) 233–2896.

SUPPLEMENTARY INFORMATION: .

I. Background on the Kentucky Program

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. Background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the May 18, 1982, **Federal Register** (47 FR 21404). Subsequent actions concerning conditions of approval and program amendments can be found at 30 CFR 917.11, 917.13, 917.15, 917.16, and 917.17.

II. Submission of the Proposed Amendment

By letter dated April 29, 1994 (Administration Record No. KY–1279), Kentucky submitted a proposed amendment to its program pursuant to SMCRA. Kentucky proposed to revise the following sections of its statutes: KRS 42, 177, 211, 350, 351, and 352. The revisions pertain to remining, permits, definitions, appeal rights, water replacement, and permit revisions and are contained in Senate Bills 208, 214, 249, and House Bills 338 and 707.

OSM announced receipt of the proposed amendment in the May 20, 1994, **Federal Register** (59 FR 26472), and in the same document, opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on June 20, 1994.

By letter dated September 1, 1994 (Administrative Record No. KY–1319), Kentucky submitted additional explanatory information. Because the information merely clarified certain provisions of the proposed revisions,

OSM did not reopen the comment period.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment.

Revisions not specifically discussed below concern nonsubstantive wording changes, or revised cross-reference and paragraph notations to reflect organizational changes resulting from this amendment.

A. Senate Bill 208

Senate Bill 208, deals for the most part, with the new remining provisions of the Energy Policy Act of 1992. The Energy Policy Act of 1992, enacted on October 24, 1992, amended section 404 of SMCRA and added sections 510(e), 515(b) (20)(B), 701(33) and 701(34) of SMCRA. It should be noted that OSM has proposed rules on remining to reflect the changes enacted by the Energy Policy Act of 1992. These rules are not final. Therefore, the Kentucky regulatory program may need to be amended if it is later found to be inconsistent with the federal rules.

1. At KRS 350.010(22), Kentucky proposes to define ''unanticipated event or condition'' as an event or condition encountered in a remining operation that was not contemplated by the applicable surface coal mining and reclamation permit. At KRS 350.010(23), Kentucky proposes to define ''lands eligible for remining as those lands that would otherwise be eligible for expenditures under KRS 350.560 (1) or (2) (Lands and Waters Eligible for Reclamation or Drainage Abatement Expenditures).

The Director finds the proposed definitions at KRS 350.010 (22) and (23) substantively identical to sections 701 (33) and (34) of SMCRA and therefore no less stringent than these sections.

2. At KRS 350.085(7), Kentucky proposes that if a permit applicant has a violation resulting from an unanticipated event or condition at a surface coal mining operation eligible for and under a remining permit, then the applicant would not be permit blocked for such a violation. The term ''violation would mean the same as in KRS 350.085(6) and as Kentucky stated in a September 1, 1994 letter, the exemption from permit blocking would only apply to violations on remining operations which occurred after July 15, 1994. This exemption would expire on September 30, 2004.

The Energy Policy Act of 1992, enacted on October 24, 1992, added section 510(e) of SMCRA. As of October 24, 1992, section 510(e) of SMCRA exempts permit applicants from permit blocks for violations resulting from unanticipated events or conditions that occurred on lands eligible for remining which were under a permit by the permit applicant. The Director finds that KRS 350.087 is no less stringent than 510(e) of SMCRA because the Kentucky statute, as interpreted by Kentucky's Natural Resources and Environmental Protection Cabinet, would only allow the permit block exemption for violations resulting from an unanticipated event or condition occurring after July 15, 1994 on lands eligible for remining.

3. At KRS 350.095(1), Kentucky proposes that the permittee shall assume responsibility for successful revegetation for a period of five full years after the last year in which augmented seeding, fertilizing, irrigation, or other work occurs.

The Director finds the proposed revision at KRS 350.095(1) substantively identical to and therefore no less stringent than the language at section 515(b)(20)(A) of SMCRA.

At KRS 350.095(2), Kentucky proposes that on lands eligible for remining, the permittee shall assume responsibility for successful revegetation for a period of two full years after the last year in which augmented seeding, fertilizing, irrigation, or other work occurs in order to assure compliance with the applicable standards. The authority for this section terminates on September 30, 2004.

The Director finds the proposed revision at KRS 350.095(2) substantively identical to and therefore no less stringent than section 515(b)(20)(B) of SMCRA.

4. At KRS 350.560(1), Kentucky proposes that surface coal mining operations on lands eligible for remining not affect the eligibility of those lands for reclamation and restoration after the release of the bond or deposit for a remining operation. In the event the bond or deposit for a surface coal mining operation on lands eligible for remining is forfeited, available funds maybe used if the amount of the bond or deposit is not sufficient to provide for adequate reclamation or abatement.

The Director finds the proposed revision at 350.560(1) substantively identical to and therefore no less stringent than the language of section 404 of SMCRA.

B. Senate Bill 214

1. At new KRS 350.0285 and KRS 351.070(14), Kentucky proposes to require that the Cabinet and the Commissioner of the Department of Mines and Minerals (Department) notify the Transportation Cabinet every six months of permits issued for mine openings and mine closings under their authority. At KRS 352.420(3), Kentucky proposes to require that the operator or superintendent of a mine notify the Commissioner every six months of a mine opening and a mine closure under his authority.

The Federal rules contain no counterpart requirements. The Director finds the proposed provisions at KRS 350.0285, KRS 351.070(14), and KRS 352.420(3) not inconsistent with the requirements of SMCRA and the Federal regulations.

2. At KRS 42.470(1)(c), Kentucky proposes to require that all counties receive an annual payment from the local government economic assistance fund which is based on the average of total ton miles within the county during the most recent three-year period.

The Federal rules contain no counterpart requirements. The Director finds the proposed revisions at KRS 42.470(1)(c) not inconsistent with the requirements of SMCRA and the Federal regulations.

3. At KRS 177.977(2), Kentucky proposes to require that a copy of the information furnished to the Cabinet pursuant to the provisions of section 1 of this Act and a copy of the information furnished to the Department pursuant to the provisions of sections 2 and 3 of this Act be submitted to the Transportation Cabinet.

The Federal rules contain no counterpart requirements. The Director finds the proposed provisions at KRS 177.977(2) not inconsistent with the requirements of SMCRA and the Federal regulations.

4. At KRS 211.390(1), Kentucky proposes to revise its definition of ''fluidized bed energy production facility'' to mean a fluidized bed combustion unit installed in a plant facility, subject to certain conditions.

The Federal rules contain no counterpart definition. The Director finds the proposed revision at KRS 211.390(1) not inconsistent with the requirements of SMCRA and the Federal regulations.

5. At KRS 211.392(1), Kentucky proposes to substitute ''fluidized bed combustion unit'' for ''structure'' and to delete the provision that the Governor's Office for Coal and Energy Policy will provide technical assistance and factual

information as requested in writing by the Revenue Cabinet.

The Federal rules contain no counterpart provisions. The Director finds the proposed revisions at KRS 211.392(1) not inconsistent with the requirements of SMCRA and the Federal regulations.

6. At KRS 211.392(2), Kentucky proposes to require that before the denial, revocation, or modification of a fluidized bed combustion technology tax exemption certificate, the Revenue Cabinet is required to give the applicant written notice and afford the applicant an opportunity for a hearing. The requirement that the special assistant to the Governor for coal and energy policy be notified of the hearing along with the applicant is deleted.

The Federal rules contain no counterpart provisions. The Director finds the proposed revisions at KRS 211.392(2) not inconsistent with the requirements of SMCRA and the Federal regulations.

7. At KRS 211.392(5), Kentucky proposes to delete the requirement that the notice of issuance or notice of denial, revocation, or modification of the tax exemption certificate be sent to the special assistant to the Governor for coal and energy policy. Also deleted is the designation of the above-referenced special assistant and applicant as parties for the purposes of review in appeals. At KRS 211.392(6), Kentucky proposes to specify that any applicant or holder of certificate aggrieved by the refusal to issue, revocation, or modification of a fluidized bed combustion tax exemption certificate has certain appeal rights. At KRS 211.392(8), Kentucky proposes to delete the requirement that in the event that the purpose for which a combustion unit with an exemption certificate is held changes, the above-referenced special assistant must be notified by the holder of the certificate.

The Federal rules contain no counterpart provisions. The Director finds the proposed revisions at KRS 211.392(5), (6), and (8) not inconsistent with the requirements of SMCRA and the Federal regulations.

8. At KRS 211.392(9), Kentucky proposes to allow a fluidized bed combustion facility to be exempt from 211.392 as well as sections KRS 132, 136, 138, and 139. Kentucky also proposes to require that each exemption certificate remain in force for a period of eight years from the date of issuance and elapse at the end of the said period. Any fluidized bed combustion unit previously exempt shall not be eligible for recertification upon completion of the eight year certificate period.

The Federal rules contain no counterpart provisions. The Director finds the proposed revisions at KRS 211.392(9) not inconsistent with the requirements of SMCRA and the Federal regulations.

C. Senate Bill 249

1. At KRS 350.010(1), Kentucky proposes to clarify that excavation for the purpose of obtaining coal includes extraction of coal from refuse piles is included in the definition of ''surface coal mining operations.''

The Director finds the proposed definition of ''surface coal mining operation'' at 350.010(1) substantively identical to and therefore no less stringent than the Federal definition at 701(28) of SMCRA.

2. At KRS 350.010(9), in response to the required amendment at 30 CFR 917.16(j)(2), see 58 FR 42001 (August 6, 1993), Kentucky proposes to revise the definition of ''person'' to mean any individual, partnership, corporation, association, society, joint stock company, firm, company, or other business organization; and shall also include any agency, unit, instrumentality of Federal, State, or local government including any publicly owned utility or publicly owned corporation of Federal, State, or local government.

The Director finds the proposed definition of ''person'' substantively identical to and therefore no less effective than the Federal definition at 30 CFR 700.5. He is removing the required amendment at 30 CFR 917.16(j)(2), which required Kentucky to revise its definition of ''person'' to include all entities encompassed by the Federal definition.

3. At KRS 350.0301(4), Kentucky is proposing to require that all hearings be open to the public. The phrase ''except as ordered by the hearing officer'' is deleted in response to the required amendment at 30 CFR 917.16(j)(1) which required Kentucky to delete the phrase. Therefore, the Director finds that the deletion of the phrase renders this section no less stringent than 525 of SMCRA. The Director is removing the required amendment at 30 CFR 917.16(j)(1).

At KRS 350.0305(1), Kentucky is proposing to delete its hearing provisions and transfer them, with minor revisions, to 350.0301(1). At KRS 350.0305, Kentucky is proposing to require that judicial review of a final order resulting from a hearing on the issuance of a notice of noncompliance, the issuance of an order for cessation and immediate compliance, the assessment of civil penalties, or a bond forfeiture be in compliance with KRS 350.032. At KRS 350.032(2), Kentucky is proposing to permit any person aggrieved by a final order of the Cabinet resulting from a hearing on the issuance of a notice of noncompliance, the issuance of an order for cessation and immediate compliance, the assessment of civil penalties, or a bond forfeiture to obtain a review of the order by filing a written petition in the appropriate county circuit court.

Section 526(e) of SMCRA requires that actions of the State Regulatory Authority be subject to judicial review by a court of competent jurisdiction. Kentucky is providing judicial review of its enforcement actions and therefore the Director finds KRS 350.0305 and 350.032(a) to be in accordance with 526(e) of SMCRA.

D. House Bill 338

At KRS 350.421 (1) and (2), Kentucky proposes to extend its water rights and replacement provisions to water resources and supplies affected by underground mining, as well as surface mining.

It should be noted that KRS 350.255(2) is deleted. This deletion was previously approved by OSM on August 6, 1993 at 58 FR 42001, 42003. Consequently, the deletion does not need to be addressed in this rulemaking.

The Federal law at section 720(a)(2) requires the prompt replacement of any drinking, domestic or residential water supply from a well or spring in existence prior to the application for a surface coal mining permit which has been affected by contamination, diminution or interruption resulting from underground coal mining operations. The Kentucky statute also provides for the replacement of any drinking, domestic or residential water supply but is silent on whether or not the replacement of water supplies will be prompt. Therefore, the Director finds KRS 350.421 no less stringent than 720(a)(2) of SMCRA except to the extent that the Kentucky statute does not provide for the prompt replacement of water supplies.

He is requiring that Kentucky amend its program to provide for prompt replacement. In its letter dated September 1, 1994, Kentucky stated that it is not authorized by State law to retroactively apply the water replacement requirements to water losses which occurred between October 24, 1992, and July 15, 1994, the effective date of House Bill 338. The Director is deferring decision on the enforcement of the provisions of SMCRA section 720(a) during the period from the effective date of SMCRA section 720 (October 24,

1992) to the effective date of KRS 350.421 (1) and (2) (July 15, 1994). Pursuant to newly promulgated 30 CFR 843.25, OSM intends to publish by July 31, 1995, for each State with a regulatory program, including Kentucky, final rule notices concerning the enforcement of the provisions of the Energy Policy Act in those States.

E. House Bill 707

At KRS 350.070(1), Kentucky proposes to permit extensions of the underground mining area that are not incidental boundary revisions and do not include planned subsidence or other new proposed surface disturbances to be made by application for a major revision to the permit.

The Federal rules do not require that areas overlying proposed underground workings be included in the permit area if no surface disturbance is planned. The Director finds the proposed revisions at KRS 350.070(1) not inconsistent with the requirements of SMCRA and the Federal rules.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. Two public comments were received. Because no one requested an opportunity to speak at a public hearing, no hearing was held.

The Coal Operators and Associates Inc. expressed its general support for the amendment. The Kentucky Resources Council, Inc. (KRC) had several comments:

1. *House Bill 383*—The KRC was concerned with the practical implementation of the new protections of KRS 350.421 (1) and (2). The KRC anticipates proof difficulties where mine related water loss or quality diminution occurs. The KRC then recommended several courses of action. The Director notes that the scope of this amendment are the revisions to the Kentucky statutes and that the concerns raised by the KRC are beyond the scope of this rulemaking and do not pertain to KRS 350.421, which the KRC found to be consistent with SMCRA.

2. *Senate Bill 208*—The KRC stated that this Bill does not provide a commencement date for the operation of the statute's provisions and could be construed to require waiving permit blocking for violations that occurred before 1992 on pre-1992 permitted remining sites. KRC asserts that Congress did not intend section 510(e) to apply either to violations which occurred prior to October 24, 1992 or to permits issued before that date. KRC posits the purpose of section 510(e) is to provide solely post-enactment date incentives for remining. KRC also cautioned of the difficulty of establishing the existence of unanticipated events or conditions at permits issued before October 24, 1992.

OSM disagrees with part of the comment. As to the date the violation occurs, Kentucky will exempt permit applicants from permit blocks for violations that occurred after July 15, 1994 as a result of an unanticipated event or condition on lands eligible for remining.

Regarding the date the remining permit is issued, the plain language of section 510(e) of SMCRA does not require that the remining permit have been issued after October 24, 1992, only that the application for the new permit be on or after October 24, 1992. While the legislative history of section 2503 of the Energy Policy Act indicates that the remining amendments to SMCRA were, as a whole, meant to provide incentives to industry to extract coal which would otherwise be bypassed, the text of section 510(e) is also consistent with Congressional awareness of, and a need to correct the inequality of permit applicants being permit blocked for a violation resulting from an event or condition at a remining site which they could not have reasonably anticipated nor over which they had any control, regardless of the date of permit issuance.

The application of section 510(e) should also not be limited on the basis of the potential difficulty of establishing unanticipated events or conditions on permits issued before October 24, 1992. As with any permit requirement, the burden is on the applicant to make the required demonstration. Regulatory authorities will decide whether to apply section 510(e) based upon information set forth in the permit application. Moreover, any difficulty a regulatory authority night experience in evaluating whether the event or condition underlying the potentially permit blocking violation was reasonably unanticipated or whether the violation occurred on lands eligible for remining would be no greater on October 23, 1992, the day before section 510(e) was enacted, than on the following day. Accordingly, OSM does not interpret this section to impose a post-October 24, 1992 limitation on when permits must have been issued. This issue may, however, become increasingly academic for there are ever fewer pre-October 24, 1992 remining permits which are still in active mining reclamation.

The KRC was concerned that revisions to KRS 350.032, 350.0301 and 350.0305 may be construed to eliminate the ability to obtain under KRS 350.032(4) temporary relief of cabinet orders and determinations that are not related to bond forfeitures or enforcement orders. In a letter dated September 1, 1994, Kentucky stated that KRS 350.032(4), its temporary relief provision, applies to orders issued ''under this chapter.'' Kentucky interprets KRS 350.032(4) to authorize temporary relief in appeals under both KRS 350.0305 and KRS 350.032. The Director agrees with Kentucky's interpretation since the phrase ''under this chapter'' means Chapter 350 and sections 350.032, 350.0301 and 350.0305 all are within Chapter 350.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Kentucky program. The U.S. Department of the Interior, Bureau of Land Management and Bureau of Mines; the U.S. Department of Labor, Mine Safety and Health Administration; and the U.S. Department of Agriculture, Soil Conservation Service, concurred without comment. The U.S. Department of the Interior, Fish and Wildlife Service, commented that the reduction in the period of responsibility for revegetation success for remining sites from five years to two years would result in lost opportunities to assure vegetative success on highly erosive sites. It recommended that the regulation remain unchanged. The Director notes Kentucky's proposed revision is identical to SMCRA's standards at section 515(b)(20)(B).

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

On May 13, 1994, OSM solicited EPA's concurrence with the proposed amendment. By letter dated May 17, 1995, EPA concurred with the provisions of the proposed amendment.

V. Director's Decision

Based on the above findings, the Director approves, with two exceptions, the proposed amendment as submitted by Kentucky on April 29, 1994. As

noted in Finding D concerning the proposed revisions at KRS 350.421(1) and (2), the Director is requiring that Kentucky amend its program to provide for the prompt replacement of water supplies. He is deferring decision on the enforcement of the provisions of SMCRA section 720 during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of KRS 350.421(1) and (2) (July 15, 1994). As noted in Finding C, the Director is also removing the required amendments at 30 CFR 917.16(j)(1) and (j)(2).

On March 31, 1995, OSM published final rules on subsidence to reflect the changes enacted by the Energy Policy Act of 1992, Pub. L. 102–486 (60 FR 16722). OSM intends to publish by July 31, 1995, for each State with a regulatory program, including Kentucky, final rule notices concerning the enforcement of the provisions of the Energy Policy Act in those States. Therefore, those portions of the Kentucky amendment that reflect changes because of the Energy Policy Act of 1992, are approved with the understanding that Kentucky may have to amend its program to correct any inconsistencies that may arise after the publication of the Federal final rules on July 31, 1995.

The Federal regulations at 30 CFR Part 917, codifying decisions concerning the Kentucky program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. Thus, any changes to the State program are not enforceable until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. In the oversight of the Kentucky program, the Director will recognize only the statutes, regulations and other materials approved by OSM, together with any consistent implementing policies, directives and other materials, and will require the enforcement by Kentucky of only such provisions.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 43332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 16, 1995.

Robert A. Penn,

Acting Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 917—KENTUCKY

1. The authority citation for part 917 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 917.15 is amended by adding paragraph (yy) to read as follows:

§ 917.15 Approval of regulatory program amendments.

* * * * * * *

(yy) The following statutes, as submitted to OSM on April 29, 1994, and supplemented with additional explanatory information on September 1, 1994, are approved effective June 27, 1995, except to the extent that KRS 350.421 does not provide for the prompt replacement of water supplies:

KRS 350.010(2), (16), (22), (23).	Definitions.
KRS 350.421	Water Supplies.
KRS 350.085(1), (7) ..	Violations.
KRS 350.095(1), (2) ..	Revegetation.
KRS 350.560(1)	Bonds.
KRS 350.0285	Notification Procedures.
KRS 351.070(14)	Notification Procedures.
KRS 352.420(3)	Notification Procedures.
KRS 42.470(1)(c)	Reimbursement.
KRS 211.390(1)	Definitions.
KRS 211.392(1), (2) ..	Exemption Application.
KRS 211.392(5)	Exemption Certificate.
KRS 132, 136, 138, 139.	Term of Certificate.
KRS 350.010(1)	Definitions.
KRS 350.010(9)	Definitions.
KRS 350.0301(1) and (4).	Hearing Procedures.
KRS 350.0305	Judicial Review.
KRS 350.032(2), (4) ..	Hearing Procedures.
KRS 350.421(1), (2) ..	Water Replacement.
KRS 350.070(1)	Permit Revision.

KRS 177.977	Coal Transportation.
KRS 351.070(13)	Authority Provisions.
KRS 211.392(6), (8) ..	Exemption Certificates.

The Director is deferring decision on the enforcement of the provisions on SMCRA section 720 during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of KRS 350.421(1) and (2) (July 15, 1994).

3. Section 917.16 is amended to remove and revise paragraph (j) and to add paragraph (m) to read as follows:

§ 917.16 Required regulatory program amendments.

* * * * *

(j) [Reserved]

* * * * *

(m) By August 28, 1995, Kentucky shall submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption of proposed revisions to its program to specify that Kentucky's program provide for the prompt replacement of water supplies.

[FR Doc. 95–15344 Filed 6–26–95; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–95–026]

Special Local Regulations for Marine Events; Welcome America Fireworks and Lighted Boat Parade; Delaware River, Philadelphia, PA

AGENCY: Coast Guard, DOT.

ACTION: Notice of Implementation of 33 CFR 100.509.

SUMMARY: This notice implements 33 CFR 100.509 for the Welcome America Fireworks Display and Lighted Boat Parade. The boat parade will begin at Penn Treaty Park and conclude at Penn's Landing, Delaware River, Philadelphia, Pennsylvania on July 1, 1995. The fireworks display will be launched from barges anchored off Penns Landing, Delaware River, Philadelphia, Pennsylvania on July 3, 1995. The regulations in 33 CFR 100.509 are needed to control vessel traffic in the immediate vicinity of the event due to the confined nature of the waterway and expected spectator craft congestion during the event. The regulations restrict general navigation in the area for the safety of life and property on the navigable waters during the event.

EFFECTIVE DATES: The regulations in 33 CFR 100.509 are effective from 8 p.m. to 11 p.m., July 1, 1995 and from 8:30 p.m. to 11:30 p.m., July 3, 1995. If inclement weather causes the postponement of the event, the regulations are effective from 8 p.m. to 11 p.m., July 2, 1995 and from 8:30 p.m. to 11:30 p.m., July 4, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen L. Phillips, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004 (804) 398–6204, or Commander, Coast Guard Group Philadelphia (215) 271–4825.

DRAFTING INFORMATION: The drafters of this notice are QM2 Gregory C. Garrison project officer, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, and CDR C.A. Abel, project attorney, Fifth Coast Guard District Legal Staff.

DISCUSSION OF REGULATIONS: The Welcome America Committee submitted an application to hold the Welcome America Fireworks Display and Lighted Boat Parade. The display will be launced from barges anchored off Penns Landing, Delaware River, Philadelphia, Pennsylvania. Since many spectator vessels are expected to be in the area to watch the fireworks, the regulations in 33 CFR 100.509 are being implemented for this event. The fireworks will be launched from within the regulated area. The waterway will be closed during the display. Since the closure will not be for an extended period, commerical traffic should not be severely disrupted.

Dated: June 12, 1995.

W. J. Ecker,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 95–15754 Filed 6–26–95; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 100

[CGD 05–95–036]

Special Local Regulations for Marine Events; Great American Picnic and Fireworks, Elizabeth River, Town Point, Norfolk and Portsmouth, VA

AGENCY: Coast Guard, DOT.

ACTION: Notice of Implementation of 33 CFR 100.501.

SUMMARY: This notice implements 33 CFR 100.501 for the Great American Picnic and Fireworks Display to be held in the Waterside area of the Elizabeth River between Norfolk and Portsmouth, Virginia. These special local regulations are needed to control vessel traffic within the immediate vicinity of Waterside due to the confined nature of the waterway and the expected vessel congestion during the event. The effect will be to restrict general navigation in the regulated area for the safety of participants and spectators.

EFFECTIVE DATES: The regulations in 33 CFR 100.501 are effective from 12:01 p.m. to 11 p.m., July 4, 1995.

FOR FURTHER INFORMATION CONTACT:

Stephen L. Phillips, Chief, Boating Affairs Branch, Fifth Coast Guard District 431 Crawford Street, Portsmouth, Virginia 23705 (804) 398–6204, or Commander, Coast Guard Group Hampton Roads (804) 483–8559.

DRAFTING INFORMATION: The drafters of this notice are QM2 Gregory C. Garrison, project officer, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, and CDR C.A. Abel, project attorney, Fifth Coast Guard District Legal Staff.

DISCUSSION OF REGULATION: Norfolk Festevents, Ltd. has submitted an application to hold the Great American Picnic in the Waterside area of the Elizabeth River. This area is described by 33 CFR 100.501 and generally includes the waters of the Elizabeth River between Town Point Park, Norfolk, Virginia, the mouth of the Eastern Branch of the Elizabeth River, and Hospital Point, Portsmouth, Virginia. Since this event is of the type contemplated by this regulation and the safety of the participants and spectators viewing this event will be enhanced by the implementation of special local regulations for the Elizabeth River, 33 CFR 100.501 will be in effect during the Great American Picnic. The waterway will be closed during the fireworks displays and air shows. Since the waterway will not be closed for an extended period, commercial traffic should not be severely disrupted. In addition to regulating the area for the safety of life and property, this notice of implementation also authorizes the Patrol Commander to regulate the operation of the Berkley drawbridge in accordance with 33 CFR 117.1007(b), and authorizes spectators to anchor in the special anchorage areas described in 33 CFR 110.72aa.

Dated: June 14, 1995.

W. J. Ecker,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 95–15755 Filed 6–26–95; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[CGD01–95–062]

RIN 2115–AA97

Safety Zone: Brick Summerfest, Bricktown Race, Metedeconk River, Brick, NJ

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on July 4, 1995, in the Metedeconk River, for the Bricktown Race. This safety zone prevents vessels not participating in the race from transiting a portion of the Metedeconk River, Brick, New Jersey.

EFFECTIVE DATE: This rule is effective on July 4, 1995, from 11:30 a.m. until 4:30 p.m., unless extended or terminated sooner by the Captain of the Port, New York.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) K. Messenger, Maritime Planning Staff Chief, Coast Guard Group, New York, (212) 668–7934.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this regulation are LTJG K. Messenger, Project Manager, Coast Guard Group New York and LCDR J. Stieb, Project Attorney, First Coast Guard District, Legal Office.

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing an NPRM, and for making it effective less than 30 days after **Federal Register** publication. Due to the date this application was received, there was insufficient time to draft and publish an NPRM that allows for a reasonable comment period prior to the event. The delay encountered if normal rulemaking procedures were followed would effectively cancel this event. Cancellation of this event is contrary to the public interest.

Background and Purpose

The Coast Guard received an Application for Approval of Marine Event to hold a powerboat race on the Metedeconk River as part of the Bricktown Summerfest Celebration. This event is sponsored by the East Coast Boat Racing Club of New Jersey. This regulation establishes a temporary safety zone in the waters of the Metedeconk River on July 4, 1995, from 11:30 a.m. until 4:30 p.m., unless extended or terminated sooner by the Coast Guard Captain of the Port, New York. This safety zone prevents vessels not participating in this event from transiting a portion of the Metedeconk River, Brick, New Jersey. Vessels participating in this event include race participants and race committee craft. All other vessels, swimmers, and personal watercraft of any nature are precluded from entering or moving within the safety zone. The rectangular safety zone area includes all waters extending 400 yards off of the Windward Beach shoreline from the Metedeconk River Light ''6'' to a point approximately 1200 yards west at or near 40°03′31″ N latitude, 074°07′00″ W longitude (NAD 1983). This regulation is needed to protect the boating public from the hazards associated with high speed power boats racing in confined waters. A second safety zone, for a fireworks display will be in place on these waters from 8 p.m. to 10 p.m. on the same date and has been published separately.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This safety zone closes this portion of the Metedeconk River to through vessel traffic on July 4, 1995, from 11:30 a.m. until 4:30 p.m., unless extended or terminated sooner by the Captain of the Port, New York. Although this regulation prevents traffic from transiting this area, the effect of this regulation is not significant for several reasons: the limited duration of the event; that mariners can transit to the south or to the east of this area; this portion of the river is used mainly by recreational craft; and the extensive, advance advisories that will be made. Accordingly, the Coast Guard expects the economic impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seg.), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under Section 3 of the Small Business Act (15 U.S.C. 632).

For reasons given in the Regulatory Evaluation, the Coast Guard expects the impact of this regulation to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation contains no collection of information requirements under the Paper Reduction Act (44 U.S.C. 3501).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this regulation does not raised sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2.e. of Commandant Instruction M16475.1B, revised 59 FR 38654, July 29, 1994, the promulgation of this regulation is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket. An appropriate environmental analysis of the powerboat race under the National Environmental Policy Act will be conducted in conjunction with the marine event permitting process.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Final Regulation

For reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary section, 165.T01–062 is added to read as follows:

§ 165.T01–062 Safety Zone; Brick Summerfest Bricktown Race, Metedeconk River, Brick, New Jersey.

(a) *Location.* All waters of the Metedeconk River within a rectangular area extending 400 yards off of the Windward Beach shoreline from the Metedeconk River Light ''6'' to a point approximately 1200 yards west at or near 40°03′31″ N latitude, 074°07′00″ W longitude (NAD 1983).

(b) *Effective period.* This section is in effect on July 4, 1995, from 11:30 a.m. until 4:30 p.m., unless extended or terminated sooner by the Captain of the Port, New York.

(c) *Regulations.* (1) Vessels not participating in this event, swimmers, and personal watercraft of any nature are precluded from entering or moving within the safety zone.

(2) The general regulations contained in 33 C.F.R. 165.23 apply to this safety zone.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: June 15, 1995.

T. H. Gilmour,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 95–15756 Filed 6–26–95; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[CGD01–95–082]

Safety Zone: Bristol Harbor, RI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in Bristol Harbor, Bristol, RI for the Bristol Fourth of July Fireworks celebration. The event, sponsored by the Bristol's Fourth of July Committee, will take place on Tuesday, July 4, 1995 from 9:30 p.m. until 10 p.m. This safety zone will preclude all vessels from transiting a small portion of Bristol Harbor and is needed to protect the boating public from the hazards associated with the exploding of pyrotechnics in the area.

EFFECTIVE DATE: This rule is in effect from 9:30 p.m. until 10 p.m. on July 4, 1995.

FOR FURTHER INFORMATION CONTACT:

LT J.C. Wong, Coast Guard Marine Safety Field Office, New Bedford, at (508) 999–0072.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are LT J.C. Wong, Project Manager, Captain of the Port, Providence and CDR J. Astley, Project Counsel, First Coast Guard District Legal Office.

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Complying with standard procedures would effectively cancel the event. Due to this event's historic significance and role in the nation's celebration of Independence Day, any delays which would result in cancellation would be undesirable. Publishing a notice of proposed rulemaking and delaying the events would be contrary to the public's interest since the event is the oldest Independence Day celebration in this country, and an event viewed with patriotic zeal and pride by thousands of people travelling great distances to participate in the event. Immediate action is necessary to respond to any potential hazards associated with the conduct of this event.

Background and Purpose

The town of Bristol in Rhode Island annually provides a fireworks program to mark Independence Day. The celebration is an important event for the town of Bristol as it draws numerous people to the area for the weekend, increasing tourism and economically benefiting the town.

The Coast Guard is establishing a temporary safety zone regulation in the waters of Bristol Harbor within a 350 yard radius from the center point of a fireworks barge anchored at or near N 41–39′.8 latitude, W 071–16′.92 longitude. The exclusionary zone will be in effect for a 30 minute period during the evening of July 4, 1995. The safety zone will preclude all vessels from transiting this portion of Bristol Harbor and is necessary to protect the fireworks barge and attending tug, spectator craft, and other vessels or personnel in the area, from the hazards associated with explosive laden barges and the display itself. No vessel will be permitted to enter or move within the effected area unless expressly authorized to do so by the Captain of the Port, Providence.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Although this regulation will prevent vessels from transiting the effected area, the Coast Guard expects the economic impact of this proposal to be minimal for several reasons. Due to the fact that the time period for the safety zone is extremely limited, the event is conducted during the evening hours of a federal holiday in a remote portion of Narragansett Bay, as well as the fact that extensive, advance advisories will be made to the affected maritime community, the impact of this regulation is expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under Section 3 of the Small Business Act (15 U.S.C. 632).

For the reasons outlined in the Regulatory Evaluation above, the Coast Guard expects the impact to be minimal on all entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this rule and has concluded that under section 2.B.2.e. of Commandant Instruction M16475.1B, revised by 59 FR 38654 dated July 29, 1994, the promulgation of this regulation is categorically excluded from further environmental documentation. An environmental analysis checklist and categorical exclusion determination will be made available in the docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Final Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary section, 165.T01–082, is added to read as follows:

§ 165.T01–082 Safety Zone: Bristol Harbor, Rhode Island

(a) *Location.* The safety zone includes all waters within a 350 yard radius around the fireworks barge. The barge will be anchored at N 41–39′.8 latitude, W 071–16′.92 longitude, which is approximately 200 yards north of the Bristol Harbor Middle Ground Buoy (light list no. 18175) (NAD 83).

(b) *Effective period.* This section is effective from 9:30 p.m. until 10 p.m. on July 4, 1995.

(c) *Regulations.* The general regulations governing safety zones contained in 33 CFR Section 165.23 apply. Entry into any portion of the described zones is prohibited unless authorized by the Captain of the Port.

Dated: June 14, 1995.

P.A. Turlo,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 95–15752 Filed 6–26–95; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[CGD01–95–003]

RIN 2115–AA97

Safety Zone: Heritage of Pride Fireworks Display, Hudson River, NY

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent safety zone for the annual Heritage of Pride fireworks display located on the Hudson River, New York. The safety zone is in effect annually on the last Sunday in June from 9:30 p.m. until 11:30 p.m. The safety zone temporarily closes all waters of the Hudson River within a 300 yard radius of the fireworks platform anchored approximately 330 yards west of the Manhattan pierhead line between Pier 45 and Pier 49.

EFFECTIVE DATE: This rule is effective on June 25, 1995.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) K. Messenger, Maritime Planning Staff Chief, Coast Guard Group New York (212) 668–7934.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are LTJG K. Messenger, Project Manager, Coast Guard Group New York and LCDR J. Stieb, Project Attorney, First Coast Guard District, Legal Office.

Regulatory History

On March 22, 1995, the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (60 FR 15101). Interested persons were requested to submit comments on or before May 22, 1995. No comments were received. A public hearing was not requested and one was not held. The Coast Guard is promulgating this final rule as proposed. Due to the NPRM comment period deemed necessary to give adequate public notice, there was insufficient time to publish this final rule 30 days prior to the event. Good cause exists for making this rule effective less than 30 days after publication. Adequate measures are being taken to ensure mariners are made aware of this regulation. This rule will be locally published in the First Coast Guard District's Local Notice to Mariners and announced via Safety Marine Information Broadcasts.

Background and Purpose

For the last several years, Heritage of Pride Inc., has submitted an application to hold a fireworks program on the Hudson River. This regulation establishes a safety zone in the waters of the Hudson River within a 300 yard radius of the fireworks platform anchored approximately 330 yards west of the Manhattan pierhead line between Pier 45 and Pier 49. The safety zone is in effect annually on the last Sunday in June from 9:30 p.m. until 11:30 p.m., unless extended or terminated sooner by the Captain of the Port New York. The safety zone precludes all vessels from transiting this area of the Hudson River and is needed to protect mariners from the hazards associated with fireworks exploding in the area. The effective period of the safety zone will be announced annually via Safety Marine Information Broadcasts and locally issued notices.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. The safety zone closes a portion of the Hudson River to all vessel traffic annually on the last Sunday in June from 9:30 p.m. until 11:30 p.m., unless extended or terminated sooner by the Captain of the Port New York. Although this regulation prevents traffic from transiting this area located on the eastern side of the Hudson River, the effect of this regulation is not significant for several reasons: the limited duration of the event; the late hour of the event; the extensive, advance advisories that will be made; that traffic can safely transit to the west of this safety zone; and that this event has been held annually for the past several years without incident or complaint. Accordingly, the Coast Guard expects the economic impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. ''Small entities'' include

independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under Section 3 of the Small Business Act (15 U.S.C. 632).

For reasons set forth in the Regulatory Evaluation, the Coast Guard expects the impact of this regulation to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this regulation does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2.e. of Commandant Instruction M16475.1B, revised 59 FR 38654, July 29, 1994, it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket. An appropriate environmental analysis of the fireworks program under the National Environmental Policy Act will be conducted in conjunction with the marine event permitting process each year.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Final Regulation

For reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Section 165.170, is added to read as follows:

§ 165.170 Safety Zone; Heritage of Pride Fireworks Display, Hudson River, New York.

(a) *Location.* All waters of the Hudson River within a 300 yard radius of a fireworks platform anchored approximately 330 yards west of the Manhattan pierhead line between Pier 45 and Pier 49.

(b) *Effective period.* This section is in effect annually on the last Sunday in June from 9:30 p.m. until 11:30 p.m., unless extended or terminated sooner by the Captain of the Port New York. The effective period will be announced annually via Safety Marine Information Broadcasts and locally issued notices.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: June 5, 1995.

T.H. Gilmour,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 95–15753 Filed 6–26–95; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD01–95–073]

RIN 2115–AA97

Safety Zone: Main Stay Funds Fireworks, Upper New York Bay, NY and NJ

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for a fireworks program located in Federal Anchorage 20C in Upper New York Bay, New York. This safety zone will be in effect on June 30, 1995, from 9:45 p.m. until 11 p.m. The safety zone will temporarily close all waters of the Upper New York Bay within a 300 yard radius of the fireworks barges anchored approximately 300 yards east of Liberty Island, New York.

EFFECTIVE DATE: This rule is effective on June 30, 1995, from 9:45 p.m. until 11 p.m., unless extended or terminated sooner by the Captain of the Port, New York.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) K. Messenger, Maritime Planning Staff Chief, Coast Guard Group New York (212) 668–7934.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are LTJG K. Messenger, Project Manager, Coast Guard Group New York and LCDR J. Stieb, Project Attorney, First Coast Guard District, Legal Office.

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing an NPRM, and for making this regulation effective less than 30 days after Federal Register publication. Due to the date this application was received, there was insufficient time to draft and publish a notice of proposed rulemaking that allows for a reasonable comment period prior to the event. The delay encountered if normal rulemaking procedures were followed would effectively cancel this event. Cancellation of this event is contrary to the public interest.

Background and Purpose

On May 18, 1995, Fireworks by Grucci submitted an application to hold a fireworks program in the waters of Upper New York Bay, off of Liberty Island, New York. This fireworks program is sponsored by Main Stay Funds. This regulation establishes a temporary safety zone in all waters of the Upper New York Bay within a 300 yard radius of the fireworks barges anchored approximately 300 yards east of Liberty Island, New York, at or near 40°41′17″ N latitude, 074°02′25″ W longitude (NAD 1983). The safety zone is in effect on June 30, 1995, from 9:45 p.m. until 11 p.m., unless extended or terminated sooner by the Captain of the Port, New York. This safety zone prevents vessels from transiting this portion of the Upper New York Bay along the eastern coastline of Liberty Island, New York, and is needed to protect mariners from the hazards associated with fireworks exploding in the area.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040;

February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This safety zone closes a portion of the Upper New York Bay to vessel traffic on June 30, 1995, from 9:45 p.m. until 11 p.m., unless extended or terminated sooner by the Captain of the Port, New York. Although this regulation prevents traffic from transiting this area, the effect of this regulation will not be significant for several reasons: the safety zone is located within an anchorage area; the duration of the event is limited; the event is at a late hour; all vessel traffic may safely pass to the east of this safety zone; and the extensive, advance advisories that will be made. Accordingly, the Coast Guard expects the impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under Section 3 of the Small Business Act (15 U.S.C. 632).

For the reasons given in the Regulatory Evaluation, the Coast Guard expects the impact of this regulation to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this regulation does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2.e. of Commandant Instruction M16475.1B, revised 59 FR 38654, July 29, 1994, the promulgation of this regulation is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket. An appropriate environmental analysis of the fireworks program will be conducted in conjunction with the marine event permitting process.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measurers, Waterways.

Final Regulation

For reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary section, 165.T01–073 is added to read as follows:

§ 165.T01–073 Safety Zone; Main Stay Funds Fireworks, Upper New York Bay, New York and New Jersey.

(a) *Location.* All waters of Federal Anchorage 20C, Upper New York Bay, within a 300 yard radius of the fireworks barges anchored approximately 300 yards east of Liberty Island, New York, at or near 40°41′17″N latitude, 074°02′25″W longitude (NAD 1983).

(b) *Effective period.* This section is in effect on June 30, 1995, from 9:45 p.m. until 11 p.m., unless extended or terminated sooner by the Captain of the Port, New York.

(c) *Regulations.* (1) The general regulations contained in 33 CFR Section 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: June 19, 1995.

T.H. Gilmour,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 95–15759 Filed 6–26–95; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[CGD13–95–028]

Security and Safety Zone Regulation: Sinclair Inlet, Puget Sound, Bremerton, WA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a combined security and safety zone on the waters of Sinclair Inlet adjacent to the Puget Sound Naval Shipyard (PSNY), Bremerton, Washington. This action is necessary to safeguard U.S. Navy vessels and repair facilities from sabotage and other subversive acts, accidents, or other incidents of a similar nature. This action is also necessary to protect vessels and individuals from the dangers associated with the industrial waterfront facilities at the shipyard. Entry into this zone is prohibited unless otherwise authorized by these regulations or the Captain of the Port.

EFFECTIVE DATE: This regulation becomes effective on June 12, 1995, and remains in effect until September 9, 1995, unless sooner terminated by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: LCDR J. A. Bigley, c/o Commander, Thirteenth Coast Guard District (mps), 915 Second Avenue, Seattle, Washington 98134, (206) 220–7210.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective less than 30 days after the date of publication in the **Federal Register**. Publishing an NPRM and delaying the effective date of this regulation would be contrary to the public interest because immediate action is necessary to safeguard the security of the Puget Sound Naval Shipyard and to ensure public safety on the navigable waters of the United States. A recent Federal court decision indicates that the Naval Restricted Area (NRA) regulation for the Puget Sound Naval Shipyard, as presently codified at 33 CFR 334.1240, is not sufficient to meet the needs of national security and public safety. Immediate regulatory action is therefore needed as an interim measure until such time as the NRA regulation can be amended by the U.S. Army Corps of Engineers (COE). Amendment of the NRA regulation by COE may take as long as 90 days. For these reasons, following normal rulemaking procedures in this case would have been impracticable.

Drafting Information

The drafters of this notice are LCDR J. A. Bigley, Project Officer, and LCDR John Odell, Project Attorney, Thirteenth Coast Guard District Legal Office.

Discussion of Regulation

In the past, the U.S. Navy has relied on Naval Restricted Area (NRA) regulations established by the U.S. Army Corps of Engineers (COE) to meet the needs of national security and public safety on the waters of Sinclair Inlet adjacent to the Puget Sound Naval Shipyard (PSNY). These NRA regulations are codified at 33 CFR 334.1240. A recent Federal court decision indicates that these regulations do not apply to swimmers, divers, and other individuals not embarked on vessels.

In light of this court decision, the Commanding Officer, Puget Sound Naval Shipyard, reviewed the physical security and safety conditions around the shipyard's active piers and drydocks. Based in this review, the Commanding Officer concluded that swimmers, divers, and other individuals not embarked in vessels may pose a serious threat to the security of the shipyard if these individuals are allowed to enter the waters of Sinclair Inlet adjacent to the shipyard. Moreover, persons swimming or diving in these waters may be exposed to numerous dangers associated with the industrial waterfront facilities at the shipyard. These dangers include maneuvering U.S. Navy vessels, underwater pump suctions and discharges, rotating propellers, and rigging and crane operations over the water. Based on this review of the security and safety conditions at the shipyard, the U.S. Navy requested the Coast Guard to establish a limited access area in the waters surrounding the shipyard.

In response to the U.S. Navy's request, the Coast Guard is establishing a combined security and safety zone on the waters of Sinclair Inlet adjacent to the Puget Sound Naval Shipyard. This combined security and safety zone approximates and overlaps the existing NRA.

The Coast Guard has determined that a security zone is warranted and appropriate because a security zone is intended for the protection of assets which are vital to the national interest. Vessels moored or drydocked at the shipyard can easily be approached from the water and are vulnerable to acts of sabotage. Regulating access to the water areas around the shipyard provides a means of countering this threat without unnecessarily interfering with the public's use of the waterway. The security zone will keep unauthorized persons and vessel away from vessels and facilities at the shipyard and will allow early detection of unauthorized entry.

The Coast Guard has determined that a safety zone is also warranted because a safety zone is intended to ensure the safety of the public on the navigable waters of the United States. Persons and vessels operating in and on the waters of Sinclair Inlet adjacent to the shipyard are exposed to the numerous hazards associated with a waterfront industrial facility. Excluding unauthorized persons and vessels from this area of Sinclair Inlet will reduce the risk of accidents and injuries involving members of the public without unnecessarily interfering with the public's use of the waterway.

These regulations exempt certain categories of persons and vessels from some or all of the restrictions imposed by the security and safety zone. Other exemptions may be granted where the Captain of the Port, Puget Sound, and Commanding Officer, Puget Sound Naval Shipyard, have agreed that access to the shipyard does not pose a threat to security or safety at the shipyard and it is in the national interest. Persons and vessels requesting an exemption to enter the security and safety zone must request and receive authority from the Captain of the Port, Puget Sound, via the Security Officer, Puget Sound Naval Shipyard, Bremerton, Washington.

This combined security and safety zone will be enforced by the Captain of the Port, Puget Sound, and by his designated representatives. Designated representatives of the Captain of the Port may include Coast Guard commissioned officers and petty officers. The U.S. Navy may assist the Coast Guard in the patrol, monitoring, and enforcement of the security and safety zone.

Regulatory Evaluation

This action is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 CFR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the fact that the NRA regulations already prohibit commercial navigation from entering the waters adjacent to the shipyard.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this action will have a significant impact on a substantial number of small entities. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons stated under the Regulatory Evaluation above, the Coast Guard expects the impact of this action to be minimal on all entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this action will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This temporary final rule contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this action under the principals and criteria contained in Executive Order 12612 and has determined that this action does not have sufficient federal implications to warrant the preparation of a Federal Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under paragraph 2.B.2 of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying were indicated under **FOR FURTHER INFORMATION CONTACT.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows: 1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. A new Section 165T.13–026 is added to read as follows:

§ 165.T13–026 Security and Safety Zone; Sinclair Inlet, WA

(a) *Location.* The following area is a combined security and safety zone:

All waters of Sinclair Inlet, Puget Sound, Bremerton, Washington, bounded by a line commencing at latitude 47°33′04″ N, longitude 122°39′41″ W; thence to latitude 47°33′04″ N, longitude 122°39′07″ W; thence to latitude 47°33′07″ N, longitude 122°38′59″ W; thence to latitude 47°33′07″ N, longitude 122°38′29″ W; thence to latitude 47°33′23″ N, longitude 122°37′45″ W; thence to latitude 47°33′39″ N, longitude 122°37′27″ W; thence to latitude 47°33′42″ N, longitude 122°37′28″ W; and thence along the shoreline to the point of origin.

This combined security and safety zone roughly conforms to the configuration of the shoreline of the Puget Sound Naval Shipyard, measuring approximately 3500 yards along the shoreline and extending approximately 150 yards into Sinclair Inlet.

[Datum: NAD 83]

(b) *Regulations.* (1) In accordance with the general regulations in Sections 165.23 and 165.33 of this part, no person or vessel may enter or remain in this zone unless specifically listed in subparagraph (b)(2) of this section or authorized by the Captain of the Port, Puget Sound, or his designated representatives.

(2) The general regulations in Sections 165.23 and 165.33 of this part do not apply to the following persons or vessels;

(i) Public vessels of the United States.

(ii) Vessels performing work at Puget Sound Naval Shipyard under contract with the United States Navy.

(iii) Any other vessel or person mutually agreed upon in advance by the Captain of the Port, Puget Sound, and Commanding Officer, Puget Sound Naval Shipyard. Vessels or persons entering the security and safety zone under this exemption must have previously obtained a copy of a certificate of exemption permitting their entry in the zone from the Security Office, Puget Sound Naval Shipyard, Bremerton, Washington. This written exemption shall state the date(s) on which it is effective and may contain any further restrictions on movement and activities within the zone as have been previously agreed upon by the Captain of the Port, Puget Sound, and Commanding Officer, Puget Sound Naval Shipyard. The certificate of exemption shall be maintained onboard the exempted vessel or on the person of the exempted individual at all times when present in the zone.

(c) *Enforcement.* This combined security and safety zone will be enforced by the Captain of the Port, Puget Sound, and by his designated representatives. Designated representatives of the Captain of the Port may include Coast Guard commissioned officers and petty officers. The U.S. Navy may assist the Coast Guard in the patrol, monitoring, and enforcement of the security and safety zone.

(d) *Effective dates.* This section becomes effective on June 12, 1995 at 5 p.m. (PDT) and terminates on September 9, 1995 at 4:30 p.m. unless sooner terminated by the Captain of The Port.

Dated: June 12, 1995.

J. A. Pierson,

Capt., U.S. Coast Guard Commander, Thirteenth Coast Guard District, Acting.

[FR Doc. 95–15757 Filed 6–26–95; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–5226–1]

National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This action corrects errors and clarifies regulatory text in the final rule published on January 25, 1995, at 60 FR 4948 concerning national emission standards for chromium emissions from hard and decorative chromium electroplating and chromium anodizing tanks.

EFFECTIVE DATE: These corrections become effective June 27, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Lalit Banker, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5420.

SUPPLEMENTARY INFORMATION: On January 25, 1995, the EPA promulgated in the **Federal Register** (60 FR 4948) final national emission standards for chromium emissions from hard and decorative chromium electroplating and chromium anodizing tanks. These standards were promulgated as subpart N in 40 CFR part 63. As published, the final regulations contain errors which may prove to be misleading and are in need of clarification. This document contains corrections to editorial errors in the final standards.

List of Subjects in 40 CFR Part 63

Environmental Protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: June 15, 1995.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

For the reasons set out in the preamble, title 40, chapter I, part 63 subpart N of the Code of Federal Regulations is corrected as follows:

PART 63—[CORRECTED]

1. On page 4963, in the first column, the designations (b)(4) and (5) are corrected to read (b)(5) and (6) in § 63.14 and amendatory instruction number 2 is corrected to read:

''2. Section 63.14 is amended by adding paragraphs (b)(5) and (6) to read as follows:''

2. On page 4966, in the second column, § 63.342 in paragraph (f)(3)(iv) line 8, is corrected to read ''for that even and shall report by phone such''.

3. On page 4966, in the third column, § 63.343 in paragraph (a)(2) last line, is corrected to read ''schedule of § 63.6 (b)(1).''

4. On page 4967, in the second column, § 63.343 in paragraph (a)(5) last line, is corrected to read ''that the large designation is met, or by the compliance date specified in paragraph (a)(1)(ii) of this section, whichever is later.''

5. On page 4979, in the first column, paragraph 1.2, after the first sentence add the sentence ''The sample time has to be at least 2 hours.''

6. On page 4986, in the third column, paragraph 3.1.1, in line 2, the word ''inner'' is corrected to read ''inside.''

7. On page 4988, in the first column, paragraph 3.1.4, in line 4, the word ''absorbing'' is corrected to read ''pollutant in the absorbing.'' Also, in line 8, the word ''bleak-tight'' is corrected to read ''leak-tight.''

8. On page 4988, in the third column, paragraph 5.1.1.1, in line 9, the word ''velocity'' is corrected to read ''velocity pressure.''

9. On page 4990, in the second column, paragraph 5.1.1.3, in lines 4 and 5, remove the words ''using velocity

traverse data obtained earlier in the day.''

10. On page 4990, in the third column, paragraph 5.1.1.3, in line 1, remove the word ''velocity.''

11. On page 4990, in the second column, paragraph 5.1.1.5, in lines 2 and 3, remove the words ''before sampling.''

12. On page 4992, in the first column, paragraph 5.1.2.2, in line 2, the words ''and turn'' are corrected to read ''and seal the port. Turn.''

13. On page 4993, in the second column, paragraph 1.2, in line 7, the word ''bathreduces'' is corrected to read ''bath reduces.''

14. On page 4993, in the second column, paragraph 2.2, in line 1, the words ''Preciser Tensiometer: A Preciser'' are corrected to read ''Tensiometer: A.''

15. On page 4993, in the second column, paragraph 3.1, in lines 2 and 5, remove the words ''Preciser.''

16. On page 4993, in the third column, paragraph 3.2.(b), in line 2, the figure ''40'' is corrected to read ''45.''

17. On page 4993, in the third column, paragraph 4.2, in line 6, remove the word ''Preciser.''

[FR Doc. 95–15430 Filed 6–26–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 413

[BPD–689–F]

RIN 0938–AE80

Medicare Program; Uniform Electronic Cost Reporting System for Hospitals

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule responds to comments on the May 25, 1994, final rule with comment period that implemented a standardized electronic cost reporting system for all hospitals under the Medicare program. In that rule, we solicited comments on the requirement that cost reporting software be able to detect changes made to the electronic file after the provider has submitted it to the fiscal intermediary. This final rule responds to comments on that requirement and clarifies that although changes to the ''as-filed'' electronic cost report are prohibited, an intermediary makes a working copy of the as-filed electronic cost report for use in the settlement process.

EFFECTIVE DATE: These regulations are effective on July 27, 1995.

FOR FURTHER INFORMATION CONTACT: Thomas Talbott (410) 966–4592.

SUPPLEMENTARY INFORMATION:

I. Background

A. General

Under Medicare, hospitals are paid for inpatient hospital services that they furnish to beneficiaries under Part A (Hospital Insurance). Currently, most hospitals are paid for their inpatient hospital services under the prospective payment systems for operating and capital costs in accordance with sections 1886(d) and (g) of the Social Security Act (the Act) and 42 CFR Part 412. Under these systems, Medicare payment is made at a predetermined, specific rate for each hospital discharge based on the information contained on actual bills submitted.

Section 1886(f)(1)(A) of the Act provides that the Secretary will maintain a system for reporting costs of hospitals paid under the prospective payment systems. Section 412.52 requires all hospitals participating in the prospective payment systems to meet the recordkeeping and cost reporting requirements of §§ 413.20 and 413.24, which include submitting a cost report for each 12-month period.

The hospitals and hospital units that are excluded from the prospective payment systems are generally paid an amount based on the reasonable cost of services furnished to beneficiaries. The inpatient operating costs of these hospitals and hospital units are subject to the ceiling on the rate of hospital cost increases in accordance with section 1886(b) of the Act and § 413.40.

Sections 1815(a) and 1833(e) of the Act provide that no payments will be made to a hospital unless it has furnished the information, requested by the Secretary, needed to determine the amount of payments due the hospital under the Medicare program. In general, hospitals submit this information through cost reports that cover a 12-month period.

All hospitals participating in the Medicare program, whether they are paid on a reasonable cost basis or under the prospective payment systems, are required under § 413.20(a) to ''maintain sufficient financial records and statistical data for proper determination of costs payable under the program.'' In addition, hospitals must use standardized definitions and follow accepted accounting, statistical, and reporting practices. Under the provisions of §§ 413.20(b) and 413.24(f), hospitals are required to submit cost reports annually, with the reporting period based on the hospital's accounting year.

Section 1886(f)(1)(B)(i) of the Act provides that the Secretary will place into effect a standardized electronic cost reporting format for hospitals under Medicare. This standardized electronic cost reporting format does not require any additional data from hospitals. Section 1886(f)(1)(B)(ii) of the Act provides that the Secretary may delay or waive the implementation of the electronic format in instances where such implementation would result in financial hardship for a hospital (for example, a hospital with a small percentage of inpatients entitled to Medicare benefits). These provisions apply to hospital cost reporting periods beginning on or after October 1, 1989.

B. Provisions of the August 19, 1991 Proposed Rule

On August 19, 1991, we published a proposed rule (56 FR 41110) to implement sections 1886(f)(1)(B)(i) and (ii) of the Act. We proposed that cost reports be submitted in a standardized electronic format. We proposed that the hospital's cost report software must be able to produce a standardized output file in American Standard Code for Information Interchange (ASCII) format. We proposed that all intermediaries have the ability to read this standardized file and produce an accurate cost report. We proposed rules for suspension of Medicare payment if a hospital refuses to submit the cost report electronically. We also specified that if a hospital believes that implementation of the electronic submission requirement would cause a financial hardship, the hospital should submit a written request for a waiver or a delay of these requirements, with supporting documentation, to the hospital's intermediary. See section III of the proposed rule (56 FR 41111 through 41112).

C. Provisions of the May 25, 1994 Final Rule With Comment Period

On May 25, 1994, we published a final rule with comment period to confirm the proposed regulations and respond to public comments on the proposed rule (59 FR 26960). As a result of public comments on the proposed rule, we eliminated the requirement that providers file a hard copy cost report in addition to the electronic file. Instead, we required that, in addition to the electronic file, a hospital must submit hard copies of a settlement summary, a statement of certain worksheet totals found in the electronic file, and a signed statement certifying the accuracy of the

electronic file or the manually prepared cost report.

The purpose of these changes was to reduce the burden on providers and ensure the accuracy of the data contained in the electronic file. However, we also needed to ensure the electronic cost report is not altered once it leaves the provider. Thus, in conjunction with the changes made based on public comments, we implemented several changes designed to preserve the integrity of the electronic cost report once the provider files it with the intermediary. We required in § 413.24(f)(4)(ii) that the provider's software must be capable of disclosing that changes have been made to the cost report file after the provider has submitted it to the intermediary. We stated that electronic cost reporting software will be modified so that the cost report will calculate a ''hash total,'' that is, a number representing the sum of the worksheet totals contained in the provider's as-filed cost report. If any data in the electronic file are changed after the hash total is calculated, the electronic file will disclose that a change has been made. We also required that an intermediary may not alter a cost report once it has been filed by a hospital and must reject any cost report that does not pass all specified edits and return it to the provider for correction.

Because providers may not have anticipated the changes needed to preserve the integrity of the cost report, we solicited comments on the requirement in § 413.24(f)(4)(ii) that all cost reporting software must be able to disclose changes made to the electronic file after the provider has submitted its cost report to the intermediary.

II. Discussion of Public Comments

In response to the May 25, 1994 final rule with comment period, we received three timely items of correspondence related to the requirement that cost reporting software be able to detect changes to the electronic cost report after the provider has submitted it to the intermediary.

Comment: One commenter pointed out that a strict interpretation of the requirement in § 413.24(f)(4)(ii) that the ''intermediary may not alter the cost report once it has been filed by the hospital'' would mean that the intermediary could not make audit adjustments to the provider's as-filed electronic cost report. Another commenter asked whether the intermediary can adjust the cost report for additional information not required for acceptability but needed in such cases as Hospital Cost Report Information System (HCRIS) preparation.

Response: We did not intend to imply that the intermediary may not make audit adjustments to a provider's cost report. To clarify this point, we are revising § 413.24(f)(4)(ii) to state that the as-filed cost report may not be altered, but the intermediary must make a working copy of the as-filed cost report to be used for the settlement process.

Specifically, we are revising § 413.24(f)(4)(ii) to require that—

- The fiscal intermediary store the hospital's as-filed electronic cost report and not alter that file for any reason.
- The fiscal intermediary make a working copy of the as-filed electronic cost report to be used, as necessary, throughout the settlement process (that is, desk review, processing audit adjustments, final settlement, etc).

The fiscal intermediary may also employ a working copy of the as-filed electronic cost report for making any adjustments needed for HCRIS purposes.

Comment: Two commenters suggested that, to maintain the integrity of the provider's electronic file, HCFA should require the establishment of a print file submitted on diskette as a substitute for the hard copy cost report. Another commenter supported the use of ''hash totals'' in the electronic cost report (ECR) if the vendors are able to create ECR files that cannot be edited without detection. The commenter suggested that the ''hash totals'' in the ECR be printed in cost report text and on the hard copy certification page. The commenter also indicated that time and date stamps on the ECR file and printed cost report are not useful.

Response: As stated in the final rule with comment period, hospitals are no longer required to submit hard copies of the cost report in addition to the electronic file. We agree with the commenters' suggestion that an electronic file containing the complete printed text of the provider's cost report should be submitted in place of the hard copy. Since the ASCII file contains input data only, the print file will be helpful in settling discrepancies between the fiscal intermediary's settlement amounts and the provider's settlement amounts. Therefore, we intend to publish in the Provider Reimbursement Manual (HCFA Pub. 15–II) the requirement that providers submit an electronic file containing the entire printed text and an encryption file (hash totals) of the provider's cost report in addition to the ASCII file used for electronic cost reporting.

We disagree that the time and date stamps on the electronic cost report are not useful. The time and date stamps on the electronic cost report file must agree with the certification page that accompanies the electronic cost report file. This requirement assures us that the cost report has been reviewed and accepted and has not been altered after certification by the signing officer. This requirement coupled with the encryption file will ensure that the integrity of the file has been maintained.

Comment: One commenter suggested that the regulation mention what the responsibility of each of the 11 vendors will be to maintain consistency between software programs, particularly in the implementation of edits. The commenter indicated that if the ADR vendor establishes additional edits not specified by HCFA, the electronic cost report file created by the provider's software vendor system may result in rejection by the intermediary. This possibility places an undue burden on the provider who filed under the assumption that all errors were detected and corrected before submission.

Response: All vendors will be responsible for providing their clients with the software to create a print file, an encryption file, and the electronic cost report file. In addition, the three Automated Desk Review (ADR) vendors are responsible for developing a software program that will accept the filing of all three files, as mentioned above, with the intermediary. All of the software programs will maintain consistent edits that, when specified edits are failed, will result in the intermediary rejecting the cost report. These edits are established by HCFA and published in section 130 of the Provider Reimbursement Manual (HCFA Pub. 15–II). An ADR vendor may establish additional edits, but failure to meet such edits may not result in rejection of the cost report by the intermediary.

III. Technical Changes

We received several inquiries implying that it is unclear in the regulations when an electronic cost report is considered timely filed. Therefore, in § 413.24(f)(4)(ii), we are clarifying that, for purposes of the due date requirements specified in § 413.24(f)(2), an electronic cost report is not considered to be filed until it is accepted by the intermediary.

In the May 25, 1994 final rule with comment period, we eliminated the requirement that providers file a hard copy of the cost report. We stated that effective for cost reporting periods ending on or after October 1, 1994, this requirement is replaced with the submittal of a hard copy of a settlement

summary, a statement of certain worksheet totals found within the electronic file, and a certification statement. After publication, we realized that making this requirement effective for cost reporting periods ending on or after October 1, 1994, did not make sense since cost reporting periods generally end on the last day of a month. To eliminate any confusion associated with this requirement, we are making a technical correction to § 413.24(f)(4)(iii) to specify that the replacement of the submission of a hard copy of the cost report with the revised documentation is effective for cost reporting periods ending on or after September 30, 1994, rather than for periods ending on or after October 1, 1994.

IV. Collection of Information Requirements

As discussed in our May 25, 1994 final rule with comment period (59 FR 26963), § 413.24 contains information collection and recordkeeping requirements related to cost reporting that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The overall recordkeeping and information collection burden associated with filing the hospital cost report has been approved by OMB through August 31, 1996 under OMB No. 0938–0050.

In the May 25, 1994 final rule with comment period, we revised § 413.24 to implement the statutory requirement that hospitals submit their cost reports in a uniform electronic format. As we stated in the May 25, 1994 document, approximately 90 percent of hospitals participating in Medicare already file their cost reports electronically and thus are essentially unaffected by the requirement that hospitals submit cost reports in an electronic format. For the remaining hospitals, we stated that it was possible they would initially experience a small additional reporting burden. However, once these hospitals become familiar with electronic reporting, there will no longer be an additional burden and there may be a decrease in burden since the time needed to compute the cost report will no longer be required.

This final rule responds to comments on the May 25, 1994 document and makes only minor technical changes to § 413.24. We received no comments relating to the discussion in the May 25, 1994 document of the information collection and recordkeeping burden. The technical changes contained in this final rule have no effect for information collection and recordkeeping purposes. However, as stated in the May 25, 1994 final rule with comment period, the information collection and recordkeeping requirements contained in § 413.24 are not effective until they have been approved by OMB. A notice will be published in the **Federal Register** when approval is obtained. Organizations and individuals desiring to submit comments on the information collection and recordkeeping requirements set forth in § 413.24 should direct them to the Office of Information and Regulatory Affairs, Office of Management and Budget, Human Resources and Housing Branch, Room 10235, New Executive Office Building, Washington, D.C. 20503, Attention: Allison Herron Eydt, HCFA Desk Officer.

V. Impact Statement

Unless we certify that a final rule will not have a significant economic impact on a substantial number of small entities, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612). For purposes of the RFA, all hospitals and small businesses that distribute cost-report software to hospitals are considered to be small entities. Intermediaries are not included in the definition of a small entity.

Section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a final rule may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that has fewer than 50 beds and is located outside of a Metropolitan Statistical Area.

This final rule is merely making clarifying and technical changes to the regulations and will not have a significant effect on Medicare-participating hospitals or software suppliers. Therefore, a regulatory flexibility analysis is not required. We are not preparing a rural impact statement since we certify that this final rule will not have a significant economic impact on the operation of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this regulation was not reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR part 413 is amended as follows:

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES

1. The authority citation for part 413 continues to read as follows:

Authority: Secs. 1102, 1122, 1814(b), 1815, 1833(a), (i), and (n), 1861(v), 1871, 1881, 1883, and 1886 of the Social Security Act (42 U.S.C. 1302, 1302a–1, 1395f(b), 1395g, 13951(a), (i), and (n), 1395x(v), 1395hh, 1395rr, 1395tt, and 1395ww).

Subpart B—Accounting Records and Reports

2. In § 413.24, the headings for paragraphs (f) and (f)(4) are republished, paragraph (f)(4)(ii) and the first sentence of paragraph (f)(4)(iii) are revised to read as follows:

§ 413.24 Adequate cost data and cost finding.

* * * * *

(f) *Cost reports.* * * *

(4) *Electronic submission of cost reports.* * * *

(ii) The fiscal intermediary stores the hospital's as-filed electronic cost report and may not alter that file for any reason. The fiscal intermediary makes a ''working copy'' of the as-filed electronic cost report to be used, as necessary, throughout the settlement process (that is, desk review, processing audit adjustments, final settlement, etc). The hospital's electronic program must be able to disclose if any changes have been made to the as-filed electronic cost report after acceptance by the intermediary. If the as-filed electronic cost report does not pass all specified edits, the fiscal intermediary rejects the cost report and returns it to the hospital for correction. For purposes of the requirements in paragraph (f)(2) of this section concerning due dates, an electronic cost report is not considered to be filed until it is accepted by the intermediary.

(iii) Effective for cost reporting periods ending on or after September 30, 1994, a hospital must submit a hard copy of a settlement summary, a statement of certain worksheet totals found within the electronic file, and a statement signed by its administrator or chief financial officer certifying the accuracy of the electronic file or the manually prepared cost report. * * *

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: May 22, 1995.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 95–14782 Filed 6–26–95; 8:45 am]

BILLING CODE 4120–01–P

42 CFR Part 413

[BPD–366–F]

RIN 0938–AD01

Medicare Program; Clarification of Medicare's Accrual Basis of Accounting Policy

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule revises the Medicare regulations to clarify the concept of ''accrual basis of accounting'' to indicate that expenses must be incurred by a provider of health care services before Medicare will pay its share of those expenses. This rule does not signify a change in policy but, rather, incorporates into the regulations Medicare's longstanding policy regarding the circumstances under which we recognize, for the purposes of program payment, a provider's claim for costs for which it has not actually expended funds during the current cost reporting period.

EFFECTIVE DATE: This final rule is effective July 27, 1995.

FOR FURTHER INFORMATION CONTACT: John Eppinger, (410) 966–4518.

SUPPLEMENTARY INFORMATION:

I. Background

Generally, under the Medicare program, health care providers not subject to prospective payment are paid for the reasonable costs of the covered items and services they furnish to Medicare beneficiaries. This policy pertains to all services furnished by providers other than inpatient hospital services (section 1886(d) of the Social Security Act (the Act)) and certain inpatient routine services furnished by skilled nursing facilities choosing to be paid on a prospective payment basis (section 1888(d) of the Act.) Additionally, there are other limited services not paid on a reasonable cost basis, to which this policy would not apply. Section 1861(v)(1)(A) of the Act defines reasonable cost as the cost actually incurred, excluding any cost unnecessary in the efficient delivery of needed health services. That section of the Act also provides that reasonable costs must be determined in accordance with regulations that establish the methods to be used and the items to be included for purposes of determining which costs are allowable for various types or classes of institutions, agencies, and services. In addition, section 1861(v)(1)(A) of the Act specifies that regulations implementing the principles of reasonable cost payment may provide for the use of different methods in different circumstances. Implementing regulations at 42 CFR 413.24 establish the methods to be used and the adequacy of data needed to determine reasonable costs for various types or classes of institutions, agencies, and services.

Section 413.24(a) requires providers receiving payment on the basis of reasonable cost to maintain financial records and statistical data sufficient for the proper determination of costs payable under the program and for verification of costs by qualified auditors. The cost data are required to be based on an approved method of cost finding and on the accrual basis of accounting. Currently, § 413.24(b)(2) provides that under the accrual basis of accounting, revenue is reported in the period in which it is earned, regardless of when it is collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.

As explained in the October 9, 1991 proposed rule (56 FR 50834), under the current definition of the accrual basis of accounting, some providers have claimed costs without evidence of having incurred actual expenditures or the assurance that liabilities associated with accrued costs will ever be fully liquidated through an actual expenditure of funds. For example, under the terms of some provider employment contracts, nonprobationary employees are entitled to accumulate a certain number of sick leave days annually and carry forward a maximum accumulated amount of unused sick leave time. These sick leave days are typically vested (although not funded) but nevertheless are subject to forfeiture. That is, unused accumulated sick leave days are subject to redemption for cash if the employee retires, resigns, or is discharged in good standing, but may be forfeited if the employee is discharged for cause. In the latter case, under the current rule, some providers have sought Medicare payment for sick leave days for which the provider never became liable.

As a result of the lack of clarification in the regulations regarding Medicare payment for certain accrued costs, the Medicare program has settled approximately $4.0 million worth of accrued costs in sick leave, FICA taxes, deferred compensation, and unpaid mortgage interest expense cases. We believe that a clarification to the regulations to incorporate longstanding Medicare policy regarding timely liquidation of liabilities associated with these accrued costs will minimize the unwarranted payment of Federal funds. That is, the regulations will clarify that in cases in which a provider does not timely liquidate the liabilities, Medicare recovers its payment for the accrued costs claimed by the provider.

As discussed in the proposed rule, an alternative would be to forego incorporating in regulations our policy regarding the circumstances under which Medicare accepts a provider's claim for costs for which it has not actually expended funds during the current reporting period.

However, without a change to the regulations, some providers would believe that, for Medicare purposes, they could continue to rely solely upon the generic definition of the accrual basis of accounting, whereby revenue is reported in the period it is earned, regardless of when it is collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid. HCFA would have to continue to defend the policy without specific support in the regulations. To the extent that challenges to this policy were successful, we would be forced to pay currently for accrued liabilities that either may not be liquidated timely or may never be liquidated. Although we believe that, in light of the recent decision of the United States Supreme Court in *Shalala* v. *Guernsey Memorial Hosp.*, 115 S. Ct. 1232 (1995), the likelihood of successful challenges has decreased, we believe it is appropriate to publish these regulations to avoid any confusion regarding the policy.

In summary, despite the clear statements of Medicare payment principles found in Medicare manuals (for example, section 2305 of the Provider Reimbursement Manual), the lack of clarification to the regulations continues to impair HCFA's ability to defend against challenges to the regulations for accrued costs of sick pay, vacation pay, FICA and other payroll taxes, owners' compensation, deferred compensation, pension plans, nonpaid workers' services, and unpaid mortgage interest, as well as other accrued costs. The end result, to the extent that HCFA cannot defend challenges to the policy, is that the Medicare program makes payments for costs not incurred by providers, in violation of section 1861(v)(1)(A) of the Act.

II. Summary of Proposed Rule

On October 9, 1991, we published a proposed rule (56 FR 50834) to revise § 413.24 by adding a new paragraph to describe the conditions under which certain accrued costs would be recognized for purposes of Medicare payment. Our intention in specifying these conditions was not to change policy. Rather, it was to incorporate into the regulations our longstanding policy on the timely liquidation of liabilities, as contained in sections 704.3, 704.5, 906.4, 2140, 2144.8, 2144.9, 2146, 2162.9, and 2305 of the Provider Reimbursement Manual. Under this longstanding policy, accrued costs are included in Medicare allowable costs in the year of accrual, provided the related liabilities are liquidated timely, in accordance with the liquidation requirements for the particular type of accrued cost. If the liabilities are not liquidated timely, an adjustment is required to disallow the costs. Generally, the adjustment is made in the year of accrual except for vacation and all-inclusive paid days off, in which case the adjustment generally is made in the year in which the payment for the accrued vacation or all-inclusive paid days off should have been made. (The Provider Reimbursement Manual provides additional instructions, not incorporated in the regulations, regarding later recognition, if any, with respect to costs associated with liabilities not liquidated in accordance with the liquidation of liabilities requirements.)

As we indicated in the proposed rule, we believe this clarification will significantly contribute to the uniform application of our policies concerning recognizing accrued costs for Medicare payment and will preclude misinterpretation of the policies in the future. A change to the regulations is necessary to ensure that providers are paid for their actual costs as intended under section 1861(v)(1)(A) of the Act, and 42 CFR 413.9(c)(3), which state that the reasonable cost basis of payment contemplates that providers of services are to be paid the actual costs of providing quality care.

Accordingly, in order for accrued costs to be recognized for Medicare payment, we proposed that the following requirements be met with respect to the liquidation of liabilities:

- In a new § 413.24(c)(3)(i), we proposed that a short-term liability generally must be liquidated within 1 year after the end of the cost reporting period in which the liability is incurred, with an exception in cases in which the intermediary is furnished, within the 1-year time limit, sufficient written justification, based upon documented evidence, for nonpayment. An extension not to exceed 3 years beyond the end of the cost reporting year in which the liability was incurred could be granted for good cause.
- In a new § 413.24(c)(3)(ii), we proposed that if the provider's vacation policy is consistent for all employees, we would require that payment be made within the period provided for by that policy. If the provider's vacation policy is not consistent for all employees, we would require that payment be made within 2 years after the close of the cost reporting period in which the liability is accrued. Under this paragraph, we also proposed that the policy applicable to vacation pay also would apply to all-inclusive paid days off (for example, total time off in a given period for unspecified occasions, including illness, vacations, and family bereavement).
- In a new § 413.24(c)(3)(iii), we proposed that if sick pay is vested and funded in a deferred compensation plan, liabilities related to the contributions to the fund would be liquidated in accordance with the policy stated above for a short-term liability. However, if the sick leave plan grants employees the right to demand cash payment for unused sick leave at the end of each year, we proposed that the sick pay be includable in allowable costs, without funding, in the cost reporting period when it is earned.
- In a new § 413.24(c)(3)(iv), with regard to compensation of owners other than sole proprietors and partners (that is, employees, officers and directors owning stock in closely-held corporations or with a substantial ownership or equity in publicly-traded corporations, and certain employees of trusts), we proposed that any related accrued liability be liquidated within 75 days after the close of the cost reporting period in which the liability occurs.
- In a new § 413.24(c)(3)(v), we proposed that obligations incurred under a legally-enforceable agreement to remunerate an organization of nonpaid workers be discharged no later than the end of the provider's cost reporting period following the period in which the services were furnished.
- In a new § 413.24(c)(3)(vi), we proposed that the employer's share of FICA and other payroll taxes that the provider becomes obligated to remit to governmental agencies may be included in allowable costs only during the cost reporting period in which payment, upon which the tax is based, is actually made to the employee. For example, no legal obligation exists for the provider-employer to pay FICA taxes until such time as the employee is paid and the specific amount of payroll liability is known.
- In a new § 413.24(c)(3)(vii), we proposed that accrued liabilities related to contributions to a funded deferred compensation plan must be liquidated in accordance with the policy stated above in § 413.24(c)(3)(i) for a short-term liability. However, if the plan is not funded, reasonable provider payments made to employees under deferred compensation plans would be considered an allowable cost only during the cost reporting period in which actual payment is made to the participating employee.
- In a new § 413.24(c)(3)(viii), we proposed that accrued liability related to contributions under a self-insurance program that are systematically made to a funding agency, and that cover malpractice and comprehensive general liability, unemployment compensation, workers' compensation insurance losses, or employee health benefits, must be liquidated within 75 days after the close of the cost reporting period.

III. Discussion of Public Comments

In response to the October 9, 1991 proposed rule, we received 17 timely items of correspondence. The comments were submitted by eight providers or provider associations, two trade associations, five consultants or accounting firms, one State, and one law firm. Our responses are presented below:

A. General

Comment: Several commenters raised questions regarding the relationship between Medicare payment policy and generally accepted accounting principles (GAAP). Some commenters believe that the proposed rule conflicts with GAAP and that HCFA is bound to use GAAP.

Response: The regulations at § 413.24(a) establish the general principle that cost data be based on the accrual basis of accounting, a concept also integral to GAAP. However, regarding application of the accrual basis of accounting, Medicare payment policy does not always follow GAAP exactly because Medicare payment policy and GAAP have different objectives. Medicare's objective for cost payment purposes is to pay providers appropriately for the reasonable and proper cost of furnishing services to Medicare beneficiaries in a specific fiscal period. On the other hand, the primary goal of GAAP is the full and proper presentation of accounting data through statements and reports.

Medicare's longstanding position on the relationship between Medicare payment policy and GAAP is that GAAP will be followed only in cost situations not covered by the Medicare statute, regulations, rulings, manual provisions, or program policy (*American Medical Int'l v. Secretary of Health, Educ., and Welfare*, 466 F. Supp. 605, 624 n.21 (D.D.C. 1979), *aff'd* 677 F.2d 118 (D.C. Cir. 1981)). This position has long been stated in the Foreword to the Provider Reimbursement Manual and elsewhere (41 Fed. Reg. 46, 291–2 (Oct. 20, 1976)) and is consistent with the Medicare statute.

Section 1861(v)(1)(A) requires the Secretary, in defining reasonable cost, to ''consider, among other things, the principles generally applied by national organizations or established prepayment organizations (which have developed such principles).* * *'' At most, the statute requires the Secretary to consider certain principles. Moreover, the principles that must be considered are not generally accepted accounting principles, but are payment principles developed by national insurance or prepayment organizations in the health services sector. Therefore, we disagree with the commenter's belief that HCFA is bound to use GAAP in determining what costs are allowable. Instead, GAAP, which includes accrual accounting, is used by providers in maintaining their records and reporting their costs. When reporting their costs, providers register their trial balance in accordance with their records and subsequently make reclassification and adjustments to the trial balance in certain situations (for example, when Medicare payment policies depart from GAAP). (See section 2407 of the Provider Reimbursement Manual, Part II.)

The Supreme Court recently upheld Medicare's longstanding position on the relationship between Medicare Payment Policy and GAAP in *Shalala* v. *Guernsey Memorial Hosp.*, 115 S. Ct. 1232 (1995). The Court agreed that neither the Medicare statute nor the regulations (42 C.F.R. §§ 413.20 and 413.24) mandate Medicare payment according to GAAP. The Court also accepted the Secretary's position that the regulations require only that providers use GAAP for recordkeeping.

Because of the apparent confusion regarding the relationship between Medicare payment policy and GAAP, we have decided to move the provisions beginning with § 413.24(b)(3) of the proposed rule into a new § 413.100, Special Treatment of Certain Accrued Costs, in 42 CFR Subpart F, Specific Categories of Costs. We believe that leaving these payment provisions in § 413.24 of Subpart B, Accounting Records and Reports, which does not address allowable Medicare costs, would continue to create confusion about the role of GAAP in determining whether a cost is allowable under the Medicare program. Leaving the provisions in § 413.24 would fail to recognize the distinction between the role of GAAP in recordkeeping and reporting, where providers adhere to GAAP (including accrual accounting), and the role of GAAP in determining allowable costs, where GAAP applies only if there is no Medicare policy covering the cost situation. (See section IV of this preamble for a crosswalk between the regulation text citations for provisions of the proposed rule and the corresponding provisions of the final rule.)

Comment: Some commenters objected to the establishment of time limits for the liquidation of an accrued liability since such time limits are not required under GAAP. One commenter asserted that it was inefficient to require hospitals to follow Medicare's unique accrual policies when all other users of hospital financial statements accept GAAP.

Response: The fact that Medicare payment policies may at times differ from GAAP is neither unusual nor unintentional. This rule is a case in point. We recognize that the accrual basis of accounting, as defined in § 413.24(b)(2), is essential for the proper reporting of costs. However, as the commenters pointed out, GAAP does not impose time limits for liquidating accrued liabilities. Time limits for liquidating accrued liabilities are essential to ensure that Medicare recognizes only costs associated with a liability that is liquidated timely through an actual expenditure of funds. Medicare policy does not prevent a provider from maintaining its books and records in accordance with GAAP. Rather, for Medicare purposes, payment for a claimed accrual must be recovered if the accrual is not timely liquidated.

Comment: Some commenters stated that they opposed the proposal because it adds to the burden and cost to providers without any demonstrated need to do so, while providing relatively small benefit to HCFA.

Response: This rule should not add to the burden and costs to providers. It merely conforms regulations to present policies and longstanding practices regarding the circumstances under which Medicare recognizes, for purposes of program payment, a provider's claim for costs for which the provider has not actually expended funds during the current cost reporting period. It does not require changes in reporting or recordkeeping.

We do not agree that this rule provides a relatively small benefit to HCFA. Incorporation in the regulations of our longstanding policies will clarify that Medicare does not make payment for provider expenses for which the associated liabilities are not liquidated timely.

Comment: Several commenters stated that the proposed rule constituted a policy change, rather than just a codification of existing policy. They believe that the proposed changes to the regulations improperly deny payment for substantial costs incurred in furnishing services to Medicare beneficiaries. They opposed any changes to the existing definition of the accrual basis of accounting in regulations at § 413.24(b)(2). In addition, some commenters stated that we do not have authority to implement changes in Medicare regulations retroactively. They believe that this new provision may not be applied to services provided before the effective date of this final rule.

Response: This final rule does not implement a change in Medicare policy. Rather, it incorporates into the regulations our longstanding policy on the timely liquidation of liabilities, as contained in sections 704.3, 704.5, 906.4, 2140, 2144.8, 2144.9, 2146, 2162.9, and 2305 of the Provider Reimbursement Manual. Accordingly, this final rule does not represent a retroactive change in Medicare payment policy. Program manuals contain HCFA's guidelines for implementing the statute and regulations, that is, on how we interpret the statute and regulations. Our policy guidelines on the timely liquidation of liabilities have been included in the Provider Reimbursement Manual for many years. These guidelines are now being incorporated into the Code of Federal Regulations, as of the prospective effective date of this final rule.

Comment: One commenter believes the proposed rule places intermediaries in the role of ''policemen'' to determine whether a provider is a ''going concern''.

Response: Under this rule, providers simply would be required to liquidate liabilities timely in accordance with our longstanding policies, in order for them to be allowable costs for Medicare payment purposes. The rule adds no new requirements regarding whether a provider is a going concern. As always, intermediaries will monitor a provider's furnishing of patient care services. If a provider goes out of business, it is still necessary for the provider to timely

liquidate liability for expenses paid by the Medicare program.

Comment: According to one commenter, when HCFA implemented the prospective payment system for hospitals in 1983, we stated that after capital and outpatient cost reimbursement were folded into the prospective payment system, the hospital cost reports would become obsolete and could be phased out. In light of this statement, the commenter believes that the cost reporting burden on providers should not be expanded, and objects to HCFA's proposal to expand the burden of cost reporting by no longer allowing GAAP.

Response: Section 1886(f) of the Act requires the Secretary to maintain a system of cost reporting for hospitals receiving payments under the prospective payment system. Thus, the submission of cost reports continues to be a statutory requirement. Moreover, even if cost reporting were not necessary for prospective payment purposes, cost reporting continues to be required to determine Medicare payment for outpatient services in prospective payment hospitals and for services in other types of providers.

We are not expanding the burden of cost reporting. Providers have always been required to maintain sufficient financial records and statistical data of costs payable under the program (§ 413.20(a)). This rule simply codifies in the regulations Medicare's longstanding policy regarding the timing of payment for accrued costs by requiring timely liquidation of liabilities in order to receive Medicare payment. This policy is intended to prevent the outlay of Federal trust funds before they are needed to pay the costs of providers' actual expenditures. It does not require changes in reporting or recordkeeping and, therefore, does not expand the burden of cost reporting.

Comment: One commenter stated that the proposed rule conflicts with the requirements of the Medicare law and regulations, and noted that HCFA has recognized that the Medicare law requires it to determine payment in accordance with standardized accounting practices widely accepted in the hospital and related fields. Furthermore, the commenter pointed out that, in *National Medical Enterprises* v. *Bowen,* 851 F. 2d 291, 294 (9th Cir. 1988), the United States Court of Appeals for the Ninth Circuit concluded that the accounting standards used by hospitals to calculate and record costs are integral parts of Medicare regulations regarding what is a reasonable cost under Medicare.

Response: The rule implements already existing policy. We believe it does not conflict with the authority in the law or the regulations that implement the law. On the contrary, section 1861(v)(1)(A) of the Act defines reasonable cost as cost actually incurred, and states that reasonable costs shall be determined in accordance with regulations. Thus, the Secretary has broad discretion to define reasonable cost by regulation.

We are aware of the court's decision in *National Medical Enterprises* regarding the applicability of accepted accounting standards (such as GAAP) in determining reasonable cost under Medicare. However, *National Medical Enterprises* does not hold that generally accepted accounting principles supersede explicit Medicare instructions stated in the regulations. GAAP is important to a provider in maintaining its books and records and is relevant to the determination of Medicare payment when there is no Medicare policy on point. However, as discussed in our response to an earlier comment, GAAP and Medicare payment policy have different purposes. Unlike GAAP, which is intended to be used to present the financial position of an organization, Medicare policy specifically deals with paying providers for costs incurred in furnishing care to Medicare beneficiaries. For payment purposes, the Medicare Trust Funds should not be required to pay a provider for costs associated with liabilities that are not liquidated timely. Thus, we do not believe that Medicare policy must fully incorporate GAAP. To the extent that the *National Medical Enterprises* case differs with our policy on GAAP, we believe that case is inconsistent with the decision of the Supreme Court in *Shalala* v. *Guernsey Memorial Hosp.,* 115 S. Ct. 1232 (1995). (We note that we are developing a notice of proposed rulemaking to clarify the general applicability of GAAP to Medicare payment policy.)

Comment: One commenter asserted that HCFA's purpose in proposing the rule change is solely financial. The commenter stated further that courts have held that HCFA may not create an interpretation of the Medicare statute or regulations simply as a means of saving money (*Villa View Community Hospital, Inc.* v. *Heckler,* 720 F. 2d 1086, 1094 (9th Cir. 1983)).

Response: The primary purpose of the rule is to codify in regulations longstanding policy precluding Medicare payment for otherwise allowable costs in cases in which a provider has not liquidated timely the liability associated with the expense. For HCFA not to recover its payment for a cost accrued by a provider when the provider fails to make an expenditure to liquidate timely its liability on an obligation is not appropriate. In effect, the provider would be paid by Medicare for an expense for which it has had no outlay of funds, which is not consistent with the law. Thus, this rule does not constitute an interpretation of Medicare statute or regulations simply designed to save money, and, therefore, it is not in conflict with the reasoning of *Villa View Community Hospital.*

Comment: Several commenters stated that the proposal violates principles of accrual accounting and would force an already over-regulated industry to maintain two sets of books. They also alleged that provider costs would escalate dramatically as a result of providers being forced to spend untold hours converting to cash basis accounting.

Response: This change does not violate the principles of accrual accounting; rather, it provides time limitations by which liabilities must be liquidated in order to receive Medicare payment for the year of accrual. Providers initially record their costs in their books and records in accordance with GAAP and, subsequently, make necessary reclassifications and adjustments in their Medicare cost reports to conform with Medicare policy. The incorporation into regulations of already-functioning time limitations related to accrued costs would not change providers' established accounting systems or their preparation of Medicare cost reports. Therefore, a provider would not have to maintain two sets of books to comply with this regulation, nor would the regulations require conversion to cash basis accounting.

Comment: One commenter stated that the proposed change will prove to be detrimental to providers due to the wide variety of possible interpretations by fiscal intermediaries.

Response: We believe that the commenter's contention that this rule raises the possibility of a wide variety of interpretations by fiscal intermediaries is unfounded. The purpose of the rule is to avoid this possibility by explicitly setting forth in regulations longstanding policy that mandates specific time frames for liquidation of liabilities.

Comment: One commenter suggested that we include in the final rule examples of workers' compensation plans structured to lend themselves to unwarranted payment of Federal funds, for example, (1) situations in which a provider's workers' compensation

insurance premium payments are funneled back to a reinsurer related to the provider, or (2) situations in which a provider may have the option of paying less than the insurance premium billed to it (that is, claim an accrual for the billed premium but eventually pay the insurer a smaller amount). The commenter felt the regulations should be clear that a provider's costs are payable only to the extent that the provider has actually paid a premium.

Response: We have chosen not to incorporate the commenter's examples in the regulations. However, we agree that Medicare cannot properly pay a provider unless the provider has actually incurred a cost. In the first example, the provider's intermediary must examine the situation of an insurer reinsuring with a party related to the provider. To the extent the intermediary determines the provider's premiums are unnecessarily or improperly funneled back to a party related to the provider, the premiums would be unallowable. In the second example, to the extent that a provider does not fully liquidate its accrual, that portion of the accrual would be unallowable.

Comment: One commenter took exception to the proposal's claim that no additional information collection requirements would be imposed as a result of the proposed changes to the regulations. The commenter stated that the requirement that unfunded deferred compensation (for example) be an allowable cost only during the period in which actual payment was made to the employee would necessitate additional recordkeeping by providers who must convert their financial reporting systems.

Response: Medicare policy for unfunded deferred compensation plans remains unchanged. If deferred compensation is unfunded, Section 2140.2 of the Provider Reimbursement Manual has long indicated that the provider does not claim an expense until actual payment is made to the employee (or accrued and liquidated timely). Any necessary recordkeeping should already be in place to comply with existing policy. No new or additional recordkeeping would be required under this rule.

Comment: One commenter believes the proposal addressed a concern with over-accrual of costs but failed to provide for under-accrual of costs. The commenter indicated that if payment subsequent to filing the cost report exceeds the accrual, there is no ready mechanism to correct the under-accrued costs and to obtain proper payment. Similarly, the rule should be clarified to allow the provider to increase its interest expense in a situation in which accrued investment income is offset against interest costs but payment is not subsequently received.

Response: If the amount actually expended is greater than the accrual, the excess amount may be treated as paid on a cash basis. Similarly, if the amount of investment income actually realized is less than the amount of the accrual, the amount received serves as the basis for making an appropriate adjustment (that is, to allow additional interest expense).

Comment: One commenter stated that if this rule were adopted, providers would incur costs in treating Medicare patients that would not be paid by Medicare, thus forcing providers to shift incurred costs to other patients. The commenter noted that such cost shifting is prohibited by section 1861(v)(1)(A) of the Act.

Response: In accordance with our policy involving the accrual basis of accounting, Medicare has always paid a provider for incurred costs for which the related liability has been properly accrued, even though the provider has not transferred actual assets to satisfy its obligation. That is, Medicare, through interim payments and eventually through the cost report settlement process, has paid its share of the cost even though the provider in some cases has not yet expended any funds. To the extent that Medicare pays before the provider expends funds, Medicare has made an advance payment for the cost. The purpose of this rule is to recover Medicare's payment after permitting the provider a reasonable period of time in which to liquidate its obligation, if liquidation has not occurred within the required time period. To recover Medicare payments for costs for which the provider has not timely liquidated its obligation does not shift incurred costs to non-Medicare patients.

Comment: One commenter stated that the rule should be clarified to reflect that providers are entitled to be paid for the current period's amortized portion of costs that are not liquidated within 1 year, such as bond discount or bond issue costs.

Response: We do not agree that clarification is necessary. The regulation addresses costs for which liabilities are incurred and must be liquidated timely in order to receive Medicare payment for the year of accrual. It is not intended to apply to the current year's amortized portion of costs, which do not require current liquidation.

Comment: One commenter believed that the savings to the program cited in the proposed rule are suspect because in the vast majority of cases for the items in question, payment to the provider merely will be deferred to a later period. Therefore, a savings to the government would not be permanent.

Response: We did not identify any ''savings'' in the proposed rule. Rather, we stated that the lack of clarification in the regulations involving the accrual basis of accounting forced the Medicare program to settle cases involving accrued sick leave, FICA taxes, deferred compensation, and unpaid mortgage interest. We indicated our belief that without a change to the regulations, the Medicare program could be forced to pay additional amounts of accrued liabilities even though providers may not liquidate the liabilities on a current (that is, timely) basis.

This rule will result in a clearer statement in the regulations of our policy precluding Medicare payment for expenses in a cost reporting period for which the associated liability is not liquidated timely. If the liability is not liquidated timely, Medicare will recover payment it made for the year of accrual. (Generally, recovery is applicable to the actual year of accrual, although it could apply to a later period in some cases, such as for vacation pay.) Should the liability thereafter be liquidated and our policy provides for Medicare payment in that subsequent period, there will be a Medicare outlay for that period. In cases in which the liability is never liquidated, Medicare does not share in the cost, in the current period or a later period.

B. Self-Insurance

Comment: Some commenters noted that under the proposal, self-insurance program costs would have to be paid within 75 days after the close of the cost reporting period. They suggested that we modify the proposed change to allow program payment in the cost reporting period in which the provider incurs the cost, provided that payment by the provider is made within the timeframes specified in the provider's self-insurance funding plan.

Response: The commenter suggests that the program should recognize a provider's own established time frames in liquidating liabilities for contributions to a self-insurance fund. This would defeat the purpose of the rule, which requires a consistent time frame to be used by all providers, in accordance with longstanding program policy.

Comment: One commenter stated that the proposed rule was not clear as to Medicare's policy in cases in which a self-insurer provides advance funding under State law, and the account is

maintained and administered by the provider.

Response: By definition, self-insurance is a means whereby a provider undertakes the risk of protecting itself against anticipated liabilities by providing equivalent funds to liquidate those liabilities. In order for the contributions to a self-insurance fund to be recognized under Medicare, the self-insurance fund must be established with an independent fiduciary such as a bank, a trust company, or a private benefit administrator. In the case of a State or local governmental provider or pool, the State in which the provider or pool is located may act as a fiduciary. In either case, section 2162.7 of the Provider Reimbursement Manual sets forth stringent criteria that must be met in order to gain program recognition as a self-insurance fund. These criteria are designed to ensure the soundness and independent integrity of the fund. The situation alluded to, in which the account is maintained and administered by the provider, would not qualify.

C. All-Inclusive Paid Days Off

Comment: One commenter suggested that we modify the proposal to allow for differences in benefit plans across entities within a company. In some of the provider's facilities, according to the commenter, the benefit plan permits employees to accrue leave or payment in lieu of leave for any combination of types of leave, with some employees accruing leave over an extended period of time. The commenter believes that the proposal creates discrimination among employees even when the different plans do not, and that the proposed change may cause companies to remove the flexibility and control that employees currently have over their benefit plans.

Response: Our intent is not to remove the flexibility a provider's employees may have over their benefit plans. If a provider's vacation policy or its all-inclusive paid days off policy is consistent among all employees, liquidation of the liability is not limited by the proposal. The accrued costs of benefits in the period earned remain costs of that period provided that liquidation of the benefits is made within the period provided for by the provider's policy. Consistent application under a policy may provide for increased benefits based on years of service, provided it applies in the same manner to all employees.

We believe that consistent application of the provider's policy ensures that an employee actually takes the vacation or all-inclusive paid days off benefits for the costs that are claimed.

D. Short-Term Liability

Comment: One commenter believes that if consistency and assurance of payment for actual costs are the goals, it is inappropriate to allow a 3-year extension for ''good cause'' for payment of short-term liabilities. The commenter views such a determination as being highly subjective and largely dependent upon the good will of the fiscal intermediary. Instead, the commenter suggested that we allow liquidation of liabilities consistent with GAAP and in conformity with existing provider agreements and policies regardless of whether those policies cover accrued benefits, self-insurance, or deferred compensation payments.

Response: We do not agree with the commenter's suggestion to allow liquidation of liabilities in accordance with GAAP and in conformity with existing provider agreements and policies. The purpose of the regulation is to assure that Medicare recognizes only costs associated with a liability that is timely liquidated through an actual expenditure of funds. GAAP does not offer this assurance for Medicare.

Although the end of the year following the year of accrual permits adequate time for timely liquidation of liabilities in the vast majority of cases, we believe that an extension of up to 2 additional years is appropriate if a provider can support its need for additional time in accordance with instructions in the Provider Reimbursement Manual. We do not believe the granting of an extension is subjective or dependent on the goodwill of the intermediary.

Comment: One commenter suggested that we clarify that if short-term liabilities are the subject of dispute or litigation, they need not be discharged within 1 or even 3 years.

Response: Even in disputed cases or cases that are in litigation, our policy on the timely liquidation of liabilities still applies. The policy does not disadvantage a provider even if the liability is not discharged within 1 year, or up to 3 years in the case of an extension granted by the intermediary for cause. While the cost cannot be paid by Medicare in the year of accrual in the absence of timely liquidation of the liability, the cost can be claimed in the cost reporting period when the liquidation of the liability occurs, that is, when an actual expenditure takes place, as currently described in section 2305 of the Provider Reimbursement Manual.

Comment: One commenter suggested that we permit providers terminated from Medicare to obtain payment for all properly accrued costs incurred during their final cost reporting period (together with costs incurred after termination authorized under section 2176 of the Provider Reimbursement Manual).

Response: All properly accrued allowable costs are recognized for a provider that is terminating from the Medicare program. However, the rules for liquidation of liabilities contained in the proposed regulation continue to apply. That is, although a provider is terminating, the intermediary must still assure that the liability is timely liquidated.

Comment: One commenter suggested that the final rule should explicitly provide that the regulations are intended to address only short-term liabilities, that is, amounts normally paid within 1 year of the date the cost report is filed, and not the discharge of long-term liabilities.

Response: In this final rule, we have revised § 413.24(c)(3)(i) of the proposed rule (now § 413.100(c)(2)(i)) to provide that short-term liabilities include the current portion of long-term liabilities, such as the mortgage interest due to be paid in the current year. That is, the portion of a long-term liability due in the current year is a short-term liability for the year. Section 413.100(c)(2)(i) of this rule does not apply to portions of long-term liabilities due in future periods.

E. Compensation of Owners

Comment: One commenter stated that the proposed rule appears to indicate that the liability must be liquidated in the form of cash within 75 days after the close of the cost reporting period. The commenter noted that section 906.4 of the Provider Reimbursement Manual recognizes a promissory note as liquidation and recommended that the language in the regulations should be consistent with that in the Provider Reimbursement Manual. Another commenter stated that if we intend to propose more restrictive requirements on compensation of owners, we should also specifically provide in regulations that the issuance of an enforceable note to the owner for the amount of compensation should constitute liquidation of the accrued liability.

Response: The proposed rule stated simply that liquidation of an owner's compensation accrual must occur within 75 days after the close of the cost reporting period in which the liability occurs. We do not plan to specify in the regulations the manner of liquidation,

but rather have chosen to continue to address those specifics in the Provider Reimbursement Manual. Therefore, the proposed regulation did not provide a more restrictive liquidation policy than existing policy in the Provider Reimbursement Manual.

However, we intend to revise section 906.4 of the Provider Reimbursement Manual to deny recognition of the liquidation of liabilities by use of a promissory note without the actual transfer of assets within 75 days of the close of the cost reporting period. Revised section 906.4 then will be consistent with instructions in section 2305 of the Provider Reimbursement Manual concerning requirements for liquidating liabilities. Those instructions (albeit with different time limitations) require that a liability actually be liquidated by the end of the appropriate time period, rather than being extended by way of another liability, for example, a promissory note.

F. FICA and Other Payroll Taxes

Comment: One commenter asserted that accrual of employer-related FICA liabilities is clearly appropriate under GAAP as well as under § 413.24(b)(2), and that HCFA should continue to allow recognition of these costs especially as they relate to the accrual of year-end wages.

Response: We believe that employer-related FICA taxes should be accrued and claimed for Medicare payment only in the period in which actual payment to the employee is made. It is not until that point that the liability for the employer-related FICA tax is incurred.

Comments: One commenter pointed out that the preamble language in the proposed rule stated that FICA and other payroll taxes related to vacation pay and nonpaid workers would be paid only in the period in which payment is actually made to the employee. Yet, the language of proposed § 413.24(c)(3)(vi) indicated that all FICA and payroll taxes would be handled in the same way. The commenter suggested that we clarify the discrepancy in the final rule.

Response: Even though the preamble language for the proposed rule specifically addressed only payroll taxes related to vacation pay and nonpaid workers, our intent was to prohibit the accrual and claim for Medicare payment of such taxes for all types of payments until the period in which payment (on which the tax is based) is actually made to the employee. Thus, as the commenter suggests, and as the regulations text has always specified, this policy applies to all FICA and payroll taxes.

Comment: Some commenters stated that the applicable FICA and other payroll taxes should be accrued during the same period that the employee benefits are earned and accrued. One commenter stated that FICA and other payroll accruals apply equally to accrued vacation, holiday, and sick pay benefits. Another commenter suggested that if such payments are not made to employees in subsequent years, Medicare may recover the excess cost in subsequent years.

Response: We continue to believe that such taxes should not be accrued and claimed for Medicare payment until the period in which actual payment to the employees is made. It is at that point that the liability for the related payroll taxes is incurred.

G. Sick Pay

Comment: Regarding the sick leave example in the proposed rule (56 FR 50835), one commenter believes that providers would not typically accrue for forfeitable sick leave. Even if providers do so, the commenter believes that Medicare could avoid payment by requiring forfeitures to be offset against subsequent sick pay costs.

Response: We agree with the commenter that providers should not accrue forfeitable sick leave. However, we disagree that where forfeitable sick leave is accrued and claimed for Medicare payment, Medicare would avoid payment by requiring forfeitures to be offset against sick pay costs incurred during the period in which the forfeitures occur. Handling forfeitable sick leave in this manner would result in Medicare recognizing and paying for excessive sick leave costs up until the point of forfeiture.

As a result of this comment, we have made two revisions to this final rule. First, we have clarified under § 413.100(c)(2)(iii)(A) that if sick leave is funded in a deferred compensation plan, the contributions to the fund must take into account forfeitures. Second, if an employee has the right to demand cash payment at the end of the year, we believe that forfeitures are not an issue because the employee has earned a nonforfeitable right. Accordingly, we also have specified under § 413.100(c)(2)(iii)(B) that if a provider's sick leave plan grants employees the nonforfeitable right to demand cash payment for unused sick leave at the end of each year, sick pay is includable in allowable costs, without funding, in the cost reporting period in which it is earned.

Comment: One commenter asserted that providers should not be financially disadvantaged by disallowance of accrued benefits that are vested but subject to forfeiture clauses. The commenter stated that such clauses are financially prudent and result in lower Medicare program costs.

Response: We believe the commenter is concerned that if forfeitures are possible, Medicare would not recognize any accrual of sick leave. On the contrary, as discussed in the response to the preceding comment, if sick leave is funded in a deferred compensation plan, the contributions to the fund must take into account forfeitures. That is, the accrual of the contributions to the deferred compensation fund reflects anticipated forfeitures. However, the issue of forfeitable sick leave occurs only in the context of contributions to a deferred compensation fund. In a situation in which an employee has the right to demand cash at the end of the year for unused sick leave, the employee has earned a nonforfeitable right. In all other situations, sick pay can be claimed for Medicare payment only on a cash basis for the year in which the benefits are paid; therefore, the issue of accrual of forfeitable sick leave does not arise.

In proposing to incorporate Medicare's policy on sick leave costs (contained in section 2144.8 of the Provider Reimbursement Manual) into the regulations, we believe it was understood that sick pay costs can be claimed for payment only in the cost reporting period in which paid, unless the sick leave is funded in a deferred compensation plan or unless an employee has the nonforfeitable right to demand cash at the end of the year for unused sick leave. This policy has been included in section 2144.8 for many years. Nevertheless, we have revised the regulations by specifying under § 413.100(c)(2)(iii)(C) that sick pay costs can be claimed only on a cash basis if paid on any bases other than those in § 413.100(c)(2)(iii) (A) or (B) (that is, through a funded deferred compensation plan, or in situations in which the sick leave plan grants employees the nonforfeitable right to demand cash payment for unused sick leave at the end of each year).

Comment: One commenter stated that although timing differences will occur in any accrual method of accounting, in total, the program is not overpaying since any overestimate of expenses in one year is offset by reduction in accrued expenses in a subsequent period when the sick leave, vacation, and other types of leave are determined to be overaccrued.

Response: The purpose of the longstanding policy on liquidation of liabilities, which we proposed to incorporate in the regulations, is to

assure that a provider properly claims costs during each cost reporting period. Costs claimed during a period for which the related liability may never be liquidated result in overpayment of the costs in the year the costs are claimed. Reduction in accrued expenses in a subsequent period when sick leave is determined to be overaccrued results in Medicare's recognizing and paying for excessive costs up until the point when accrued expenses are reduced in the subsequent period.

However, in the case of vacation benefits, we are incorporating into the regulations the policy that is currently included in the Provider Reimbursement Manual regarding liquidation of the vacation accrual. In proposing to incorporate the requirements of section 2146, Medicare's policy on vacation costs, into the regulations, we believe it was understood that if payment is not made within the required time period or if benefits are forfeited by the employee, the adjustment to disallow the cost is made in the current period (that is, the latest year in which payment should have been made or the year in which the benefits are forfeited) rather than in the period in which the cost was accrued and claimed for Medicare payment. (However, an intermediary may choose to require adjustment in the period in which the cost was accrued and claimed for Medicare payment if the cost report for that period is open or can be reopened, and if the intermediary believes the adjustment is more appropriate in that period.) This policy has been included in section 2146.2 for many years. The new § 413.100(c)(2)(ii)(C) codifies this longstanding policy.

Comment: One commenter asserted that administrative costs associated with a funded deferred compensation plan (required when sick pay is not payable at year end) would prohibit the implementation of such plans in numerous facilities—effectively eliminating this form of ''short-term disability insurance.''

Response: If a provider is unable to afford the administrative costs associated with establishing a deferred compensation plan, the provider could simply claim its sick pay costs at the time when payment is made to the employee, in accordance with § 413.100(c)(2)(iii)(C). Of course, under this arrangement, the provider would not be permitted to claim accrued sick pay costs. However, under § 413.100(c)(2)(iii)(B), if a provider's sick leave plan grants employees the nonforfeitable right to demand cash payment for unused sick leave at the end of each year, sick pay is includable in allowable costs, without funding, in the cost reporting period in which it is earned.

H. Vacation Pay

Comment: One commenter stated that the consistency requirement for vacations is unclear and has no relationship to the probability or timing of payment, and requested that the term ''consistent'' be limited to the time frame for liquidation of the vacation liability and not be extended to the rate of accrual. The commenter believes that as vacation pay benefits are vested, the accrual should be recognized—consistency between classes of employees is irrelevant.

Response: This rule codifies long-standing Medicare policy (section 2146 of the Provider Reimbursement Manual) regarding payment for vacation benefits. This policy recognizes the accrual of vacation benefits, and permits payment for the accrual in the cost reporting period in which the benefit is earned, if the provider's vacation policy regarding when the vacation must be taken—or when payment is made in lieu of the vacation—is consistent for all employees. If the policy regarding when vacation must be taken is not consistent among all employees, vacation must be taken or payment in lieu of vacation must be made within 2 years after the close of the cost reporting period in which the vacation was accrued in order for the accrual to be allowed in the year in which the vacation is earned.

We agree with the commenter that, for purposes of this Medicare vacation policy, a provider's vacation policy that is ''consistent among all employees'' addresses the provider's policy regarding the time frame in which vacation benefits must be used. The provider's policy may provide for different amounts of vacation accrual depending upon such factors as an employee's length of service, or whether the employee is managerial or nonmanagerial. We now believe our statement in the proposed rule that a provider's consistent policy is one in which no provision of the policy provides for different amounts of vacation benefits for certain positions and types of employees was an overextension of the language ''consistent among all employees''.

Medicare's vacation policy is intended to assure that a provider actually liquidates its accrued costs for vacation benefits. We believe the policy is clear and permits a high degree of flexibility for a provider. In situations in which a provider's vacation policy is not consistent for all employees regarding when vacation must be taken, Medicare's policy permits a reasonable time frame—2 years after the close of the cost reporting period in which the vacation was accrued—for liquidating vacation accruals in order for the accruals to be allowed in the year when the vacation is earned.

I. Deferred Compensation

Comment: One commenter expressed concern that the proposal would require hospitals to devote staff to track the payment of deferred compensation for 10, 20, or possibly more years in order to obtain payment.

Response: The proposed regulation did not change our current policy on deferred compensation, which has been in section 2140 of the Provider Reimbursement Manual for many years. If a provider's deferred compensation plan is funded in accordance with that policy, program payment has long been based on the current period contributions to the fund, provided liabilities related to the contributions are timely liquidated (usually within 1 year after the close of the current cost reporting period). Benefit payments from the deferred compensation fund, which can occur many years later, are part of the operation of the fund and do not affect program payments in the later periods when payments are actually made from the fund.

If a provider's deferred compensation is not funded in accordance with requirements in section 2140 of the Provider Reimbursement Manual, the manual instructions have long permitted program payment only during the period in which actual payment is made.

Therefore, these regulations require no more staff time to track deferred compensation payments than is used by providers under our current, longstanding policy.

Comment: One commenter asked that we add the word ''Plans'' to the title of § 413.24(c)(3)(vii) of the proposed rule, to read ''Deferred Compensation Plans'' and that we add a new paragraph (vii)(C), to read ''Deferred compensation plans under this section do not include accrued salaries and/or accrued bonuses that are allowable in the year earned, provided they are liquidated no later than the end of the provider's cost reporting period following the period in which the salary and bonuses were earned.''

Response: We believe it is clear that the salaries and bonuses referred to in the comment, which are earned currently and which are liquidated timely under this rule with no attempt to defer payment, are not treated as

deferred compensation. Therefore, we have not adopted the commenter's suggestion to address salaries and bonuses in the text of the regulation.

IV. Provisions of the Final Rule

This final rule generally confirms the provisions of the proposed rule, with the clarifying changes discussed above in the responses to comments. In addition, upon further consideration of the regulations text set forth in the proposed rule, we believe that one additional policy clarification is necessary.

Section 413.24(c)(2) of the proposed rule consisted of an example that indicated that the accrual of postretirement health benefits under Medicare cannot be recognized unless the liability for the benefits is liquidated timely. That example referred to Statement of Financial Accounting Standards (SFAS) No. 106 (December 1990), Employers' Accounting for Postretirement Benefits Other Than Pensions, without explicitly citing SFAS No. 106. SFAS No. 106, generally effective for fiscal years beginning after December 15, 1992, requires an employer to accrue the expected cost of providing postretirement benefits to employees (and the employees' beneficiaries and covered dependents) during the years the employees provide the necessary services. However, it does not provide for timely liquidation of the accruals in accordance with Medicare policy. Accordingly, the example clarified, consistent with Medicare policy, that the accrual of postretirement benefits (addressed in SFAS No. 106) cannot be recognized in allowable costs in the year of the accrual without timely liquidation of the related liability.

We now believe that the original example is unnecessary in the final rule. Because payment for postretirement benefits is deferred, the benefits are deferred compensation. Therefore, Medicare policy on deferred compensation, funded and unfunded, applies to postretirement benefit deferred compensation plans as well as to other types of deferred compensation plans. The deferred compensation policy is found in section 2140 of the Provider Reimbursement Manual and also, with regard to liquidation of liabilities related to accrued deferred compensation costs, in § 413.100(c)(2)(vii) of this final rule. The deferred compensation policy sets forth the requirements to be met, including timely liquidation of liabilities, in order to receive Medicare payment for deferred compensation.

Under SFAS No. 106, a provider may have postretirement benefit obligations applicable to more than one year, for example, prior service costs, or a transition obligation (which, under SFAS No. 106, the provider may elect to accrue immediately or on a delayed basis). For purposes of Medicare payment, the deferred compensation policy provides, in Provider Reimbursement Manual section 2140.3.B.1 (by reference to section 2142.5, Pension Costs for Past and Current Service), that past service costs applicable to more than one cost reporting year must be amortized over a minimum of 10 years, even if the related liability for the accrual has been liquidated timely.

Therefore, in lieu of the example in proposed § 413.24(c)(2), we have clarified in § 413.100(c)(2)(vii)(C) of this final rule that postretirement benefit plans addressed in SFAS No. 106 are deferred compensation arrangements to which all the provisions of Medicare's deferred compensation policy apply.

We believe it should have been clear to readers of the proposed rule that Medicare's deferred compensation policy applies to all deferred compensation arrangements, including postretirement benefit plans. However, although the proposed rule addressed postretirement health benefits, clarifying that the accrual of such benefits cannot be recognized for Medicare payment in the year of the accrual without timely liquidation of the liability for the benefits, it did not emphasize the applicability of the deferred compensation policy in all respects to postretirement benefit plans.

Therefore, there could be situations in which a provider that has elected to accrue postretirement benefit past service costs over more than 10 years for accounting and reporting purposes (that is, for non-Medicare purposes) in conformity with SFAS No. 106, mistakenly believed it needed to use the same period for amortizing the costs for Medicare purposes. If, for Medicare purposes, the provider now wants to amortize the costs over fewer years, but not fewer than 10 years, it may request its intermediary, subject to the requirements in the regulations at § 405.1885, to make the change to applicable cost reporting periods in accordance with the longstanding policy in section 2140.3.B.1 of the Provider Reimbursement Manual. In all cases, Medicare payment is subject to the policy in this final rule and in Provider Reimbursement Manual section 2140.4 regarding timely liquidation of the associated accruals for the deferred compensation.

Correspondingly, if a provider has amortized the costs over fewer than 10 years for Medicare purposes without the express permission of its intermediary, the intermediary is required, subject to § 405.1885, to make necessary adjustments to conform the amortization to the policy in section 2140.3.B.1. of the Provider Reimbursement Manual. (We note that if a provider has been permitted by its intermediary to amortize such costs for Medicare purposes over fewer than 10 years, assuming timely liquidation of the associated accruals, the intermediary will not now make adjustments to reflect amortization over at least 10 years, nor is the provider required to make such a change.)

The other clarifying changes to the proposed rule that are set forth in this final rule, as discussed in our responses to public comments in Section IV of this final rule, are as follows:

- In § 413.100(c)(2)(i) of this rule, we have clarified that short-term liabilities also include the current portion of long-term liabilities, such as the mortgage interest due to be paid in the current year.
- We have added new § 413.100(c)(2)(ii)(C) to address necessary adjustment to a provider's cost report if accruals for vacation pay and all-inclusive paid days off are not properly liquidated. The new material incorporates policy currently in section 2146.2 of the Provider Reimbursement Manual, which provides that the adjustment to disallow accrued cost generally is made in the current period if payment for the vacation or all-inclusive paid days off is not made in the required time period or if benefits are forfeited by the employee.
- In § 413.100(c)(2)(iii)(A) concerning sick pay, we have clarified that contributions to the deferred compensation plan must be reduced to reflect estimated forfeitures.
- In § 413.100(c)(2)(iii)(B), we have clarified that only if an employee has a *nonforfeitable* right to demand cash for unused sick leave at the end of each year can the sick pay be includable in allowable costs, without funding, in the cost reporting period in which it is earned. We believe that, typically, an employee's right to demand cash for unused sick leave is nonforfeitable. However, in a situation in which an employee has a right to demand cash but, later, for any reason may not be entitled to receive the cash (that is, the amount is forfeitable under certain conditions), a provider cannot accrue the sick leave benefit and make a current year claim for Medicare payment under § 413.100(c)(2)(iii)(B)

because that section applies only to situations in which an employee's right to demand cash is nonforfeitable. Rather, the provider can claim the cost only in the year when paid to the employee, unless it meets the provisions of § 413.100(c)(2)(iii)(A).

- We have added new § 413.100(c)(2)(iii)(C) to clarify in the regulations Medicare's policy in section 2144.8 of the Provider Reimbursement Manual, that sick pay paid can be claimed for Medicare payment only on a cash basis if paid on any basis other than those in § 413.100(c)(2)(iii) (A) or (B) (that is, through a funded deferred compensation plan, or in situations in which the sick leave plan grants employees the nonforfeitable right to demand cash payment for unused sick leave at the end of each year).
- In § 413.100(c)(2)(viii), we have removed the language included in the proposed rule that addressed the allowability in subsequent periods of self-insurance accruals liquidated after the time limit provided in that section. We did not address that issue for any of the other types of accrued costs addressed in the proposed rule and thus we do not believe it would be consistent to address that issue here. This issue is already addressed in implementing manual instructions.
- We have revised the wording of §§ 413.100(c)(2)(i), (c)(2)(iii), and (c)(2)(vii)) of this rule to clarify that a request for extension to the 1-year time limit for liquidating a liability must be made within the 1-year time period. We believe it was clear that a provider could not reasonably request an extension after having failed to liquidate within the 1-year period. The regulation now specifically addresses this point.

In the same sections of the rule, we have removed the language included in the proposed rule describing ''good cause'' for an extension. Such description is already covered in section 2305 of the Provider Reimbursement Manual.

Finally, as explained in section III of this final rule, we are moving the proposed provisions of § 413.24(b)(3) and (4), and § 413.24(c) into a new § 413.100, Special Treatment of Certain Accrued Costs. For the convenience of the reader, presented below is a crosswalk that shows the regulatory citations for the provisions of the proposed rule and for the corresponding provisions of this final rule.

Proposed	Final
§ 413.24(b)(2)	§ 413.24(b)(2) § 413.100(a)
§ 413.24(b)(3)	§ 413.100(b)(1)
§ 413.24(b)(4)	§ 413.100(b)(2)
§ 413.24(c)	§ 413.100(c)
§ 413.24(c)(1)	§ 413.100(c)(1)
§ 413.24(c)(2)	delete
§ 413.24(c)(3)	§ 413.100(c)(2)
§ 413.24(c)(3)(i)(A)(B)	§ 413.100(c)(2)(i)(A)(B)
§ 413.24(c)(3)(ii)(A)(B)(C)	§ 413.100(c)(2)(ii)(A)(B)(C)
§ 413.24(c)(3)(iii)(A)(B)(C)	§ 413.100(c)(2)(iii)(A)(B)(C)
§ 413.24(c)(3)(iv)	§ 413.100(c)(2)(iv)
§ 413.24(c)(3)(v)	§ 413.100(c)(2)(v)
§ 413.24(c)(3)(vi)	§ 413.100(c)(2)(vi)
§ 413.24(c)(3)(vii)(A)(B)	§ 413.100(c)(2)(vii)(A)(B)(C)
§ 413.24(c)(3)(viii)	§ 413.100(c)(2)(viii)

V. Impact Statement

Unless we certify that a final rule will not have a significant economic impact on a substantial number of small entities, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612). For purposes of the RFA, we consider all hospitals, long-term care facilities, and other providers to be small entities.

Also, section 1102(b) of the Act requires us to prepare a regulatory impact statement if a final rule may have a significant economic impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. With the exception of hospitals located in certain rural counties adjacent to urban areas, for purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 50 beds.

Our intention in this rule is not to signify a change in policy but, rather, to incorporate in regulations our longstanding policy regarding the circumstances under which Medicare accepts a provider's claim for costs for which it has not actually expended funds during the current cost reporting period. Because this rule merely conforms regulations to present policies and practices, we have determined, and certified, that this rule will not have a significant effect on the operations of a substantial number of small entities or small rural hospitals. Therefore, we have not prepared a regulatory flexibility analysis or an analysis of the impact of this rule on small rural hospitals.

In accordance with the provisions of Executive Order 12866, this regulation was not reviewed by the Office of Management and Budget.

VI. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

List of Subjects in 42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR part 413 is amended as follows:

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES

1. The authority citation for part 413 is revised to read as follows:

Authority: Secs. 1102, 1861(v)(1)(A), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x(v)(1)(A), and 1395hh).

2. In § 413.1, the following changes are made:

a. The heading of paragraph (a) is revised to read as set forth below.

b. Paragraph (a)(2) is redesignated as paragraph (a)(3).

c. Paragraph (a)(1) is redesignated as paragraph (a)(2), and the heading ''General summary.'' is removed and the heading ''Scope.'' is added in its place.

d. A new paragraph (a)(1) is added to read as follows:

§ 413.1 Introduction.

(a) *Basis, scope, and applicability*—(1) *Statutory basis.* (i) *Basic provisions.* Section 1815 of the Act requires that the Secretary make interim payments to providers and periodically determine the amount that should be paid under Part A of the Medicare program to each provider of services for services it furnished. Section 1814(b) of the Act (for Part A) and section 1833(a) of the Act (for Part B) provide for payment on the basis of the lesser of a provider's reasonable costs or customary charges. Section 1861(v) of the Act defines ''reasonable cost.''

(ii) *Additional provisions.* Section 1814(j) of the Act provides for exceptions to the ''lower of cost or charges'' provisions. Section 1833 (a)(4) and (i)(3) of the Act provide for payment of a blended amount for certain surgical services furnished in a hospital's outpatient department. Section 1833(n) of the Act provides for payment of a blended amount for outpatient hospital diagnostic procedures such as radiology. Section 1834(c)(1)(C) of the Act establishes the method for determining Medicare payment for screening mammograms performed by hospitals. Section 1881 of the Act authorizes payment for services furnished to ESRD patients. Section 1883 of the Act provides for payment for post-hospital SNF care furnished by rural hospitals having swing-bed approval. Section 1886(h) of the Act provides for payment to a hospital for the services of interns and residents in approved teaching programs on the basis of a ''per resident amount.''

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Subpart B—Accounting Records and Reports

3. Section 413.24 is amended by revising paragraph (b)(2) to read as follows:

§ 413.24 Adequate cost data and cost finding.

* * * * *

(b) *Definitions*—

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(2) *Accrual basis of accounting.* As used in this part, the term *accrual basis of accounting* means that revenue is reported in the period in which it is earned, regardless of when it is collected; and an expense is reported in the period in which it is incurred, regardless of when it is paid. (See § 413.100 regarding limitations on allowable accrued costs in situations in which the related liabilities are not liquidated timely.)

* * * * *

Subpart F—Specific Categories of Costs

4. Section 413.100 is added to read as follows:

§ 413.100 Special treatment of certain accrued costs.

(a) *Principle.* As described in § 413.24(b)(2), under the accrual basis of accounting, revenue is reported in the period in which it is earned and expenses are reported in the period in which they are incurred. In the case of accrued costs described in this section, for Medicare payment purposes the costs are allowable in the year in which the costs are accrued and claimed for Medicare payment only under the conditions set forth in paragraph (c) of this section.

(b) *Definitions.* (1) *All-inclusive paid days off benefit.* An all-inclusive paid days off benefit replaces other vacation and sick pay plans. It is a formal plan under which, based on actual hours worked, all employees accrue vested leave or payment in lieu of vested leave for any combination of types of leave, such as illness, medical appointments, holidays, and vacations.

(2) *Self-insurance.* Self-insurance is a means by which a provider independently or as part of a group undertakes the risk of protecting itself against anticipated liabilities by providing funds in an amount equal to anticipated liabilities, rather than by purchasing insurance coverage.

(c) *Recognition of accrued costs.*—(1) *General.* Although Medicare recognizes, in the year of accrual, the accrual of costs for which a provider has not actually expended funds during the current cost reporting period, for purposes of payment Medicare does not recognize the accrual of costs unless the related liabilities are liquidated timely.

(2) *Requirements for liquidation of liabilities.* For accrued costs to be recognized for Medicare payment in the year of the accrual, the requirements set forth below must be met with respect to the liquidation of related liabilities. If liquidation does not meet these requirements, the cost is disallowed, generally in the year of accrual, except as specified in paragraph (c)(2)(ii) of this section.

(i) *A short-term liability.*

(A) Except as provided in paragraph (c)(2)(i)(B) of this section, a short-term liability, including the current portion of a long-term liability (for example, mortgage interest payments due to be paid in the current year), must be liquidated within 1 year after the end of the cost reporting period in which the liability is incurred.

(B) If, within the 1-year time limit, the provider furnishes to the intermediary sufficient written justification (based upon documented evidence) for nonpayment of the liability , the intermediary may grant an extension for good cause. The extension may not exceed 3 years beyond the end of the cost reporting year in which the liability was incurred.

(ii) *Vacation pay and all-inclusive paid days off.*

(A) If the provider's vacation policy, or its policy for all-inclusive paid days off, is consistent for all employees, liquidation of the liability must be made within the period provided for by that policy.

(B) If the provider's vacation policy, or its policy for all-inclusive paid days off, is not consistent for all employees, liquidation of the liability must be made within 2 years after the close of the cost reporting period in which the liability is accrued.

(C) If payment is not made within the required time period or if benefits are forfeited by the employee, an adjustment to disallow the accrued cost is made in the current period (that is, the latest year in which payment should have been made or the year in which the benefits are forfeited) rather than in the period in which the cost was accrued and claimed for Medicare payment. However, an intermediary may choose to require the adjustment in the period in which the cost was accrued and claimed for Medicare payment if the cost report for that period is open or can be reopened as provided in § 405.1885 of this chapter, and if the intermediary believes the adjustment is more appropriate in that period.

(iii) *Sick pay.*

(A) If sick leave is vested and funded in a deferred compensation plan, liabilities related to the contributions to the fund must be liquidated, generally within 1 year after the end of the cost reporting period in which the liability is incurred. If, within the 1-year time limit, the provider furnishes to the intermediary sufficient written justification (based upon documented evidence) for nonpayment of the liability, the intermediary may grant an extension for good cause. The extension may not exceed 3 years beyond the end

of the cost reporting year in which the liability was incurred. Contributions to the deferred compensation plan must be reduced to reflect estimated forfeitures. Actual forfeitures above or below estimated forfeitures must be used to adjust annual contributions to the fund.

(B) If the sick leave plan grants employees the nonforfeitable right to demand cash payment for unused sick leave at the end of each year, sick pay is includable in allowable costs, without funding, in the cost reporting period in which it is earned.

(C) Sick pay paid on any basis other than that specified in paragraphs (c)(2)(iii) (A) or (B) of this section can be claimed for Medicare payment only on a cash basis for the year in which the benefits are paid.

(iv) *Compensation of owners.* Accrued liability related to compensation of owners other than sole proprietors and partners must be liquidated within 75 days after the close of the cost reporting period in which the liability occurs.

(v) *Nonpaid workers.* Obligations incurred under a legally-enforceable agreement to remunerate an organization of nonpaid workers must be discharged no later than the end of the provider's cost reporting period following the period in which the services were furnished.

(vi) *FICA and other payroll taxes.* The provider's share of FICA and other payroll taxes that the provider becomes obligated to remit to governmental agencies is included in allowable costs only during the cost reporting period in which payment (upon which the tax is based) is actually made to the employee. For example, no legal obligation exists for a provider-employer to pay FICA taxes until the employee is paid and the specific amount of liability known.

(vii) *Deferred compensation.*

(A) Reasonable provider payments made under unfunded deferred compensation plans are included in allowable costs only during the cost reporting period in which actual payment is made to the participating employee.

(B) Accrued liability related to contributions to a funded deferred compensation plan must be liquidated within 1 year after the end of the cost reporting period in which the liability is incurred. An extension, not to exceed 3 years beyond the end of the cost reporting year in which the liability was incurred, may be granted by the intermediary for good cause if the provider, within the 1-year time limit, furnishes to the intermediary sufficient written justification for non-payment of the liability.

(C) Postretirement benefit plans (including those addressed in Statement of Financial Accounting Standards No. 106 (December 1990)) are deferred compensation arrangements and thus are subject to the provisions of this section regarding deferred compensation and to applicable program instructions for determining Medicare payment for deferred compensation.

(viii) *Self-insurance.* Accrued liability related to contributions to a self-insurance program that are systematically made to a funding agency and that cover malpractice and comprehensive general liability, unemployment compensation, workers' compensation insurance losses, or employee health benefits, must be liquidated within 75 days after the close of the cost reporting period.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: April 20, 1995.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 95–15341 Filed 6–26–95; 8:45 am]

BILLING CODE 4120–01–P

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42 CFR Part 413

[BPD–794–F]

RIN 0938–AG55

Medicare Program; Date for Filing Medicare Cost Reports

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule extends the time frame providers have to file cost reports from no later than 3 months after the close of the period covered by the report to no later than 5 months after the close of that period. This change is necessary to ensure that providers have an adequate amount of time to file complete and accurate cost reports. We are also defining what HCFA considers to be an ''acceptable'' cost report submission.

EFFECTIVE DATE: These regulations are effective June 27, 1995. Thus, for cost reporting periods ending before June 27, 1995, cost reports continue to be due no later than 3 months following the close of the cost reporting period. For cost reporting periods ending on or after June 27, 1995, cost reports are due no later than 5 months following the close of the cost reporting period.

FOR FURTHER INFORMATION CONTACT: Katie Walker (410) 966–7278.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1815(a) of the Social Security Act (the Act) requires that each provider participating in the Medicare program submit information (as requested by the Secretary) in order to determine the amount of payment due to the provider for services furnished under the Medicare program. Implementing regulations at 42 CFR 413.24(f) require that participating providers submit cost reports that generally cover a consecutive 12-month period of the provider's operations. Section 102 of the Provider Reimbursement Manual, Part II (PRM-II), states that a provider may select any annual period for Medicare cost reporting purposes regardless of the reporting period it uses for other purposes. Once a provider has informed the Health Care Financing Administration (HCFA) of its selection, HCFA requires it to report annually thereafter for periods ending on the same date unless that provider's intermediary approves a change in the provider's reporting period. The intermediary makes interim payments to the provider during the provider's cost reporting year. Based on the annual cost report, a retroactive adjustment is made after the end of the provider's cost reporting year to bring the interim payments made during the period into agreement with the reimbursable amount payable to the provider. Section 413.24(f)(2)(i) specifies that cost reports are due on or before the last day of the third month following the close of the period covered by the report. Section 413.24(f)(2)(ii) states that the intermediary may grant a 30-day extension of the due date, for good cause, after first obtaining the approval of HCFA. Section 104.A.2 of the PRM requires that in order to obtain an extension, the provider must submit a written request and obtain written approval from its intermediary before the cost report due date.

A provider that voluntarily or involuntarily terminates its participation in the Medicare program, or experiences a change of ownership, must file a cost report no later than 45 days following the effective date of the termination of the provider agreement or the change of ownership, as required by § 413.24(f)(2)(iii). HCFA will not grant an extension of the cost report due date in either of these situations.

To ensure timely receipt of the cost reports, section 2231.1 of the Medicare Intermediary Manual, Part 2, requires that the intermediary send a ''reminder'' letter to the provider at the end of the second month following the end of the

cost reporting period. The letter advises the provider of the due date for filing the cost report and informs the provider that its interim payments will be reduced or suspended if the cost report is not received on or before the last day of the third month following the close of the period covered by the report. However, under § 413.24(f)(2)(ii), the provider may, for good cause, request that the intermediary grant a 30-day extension of the due date of the cost report. If the intermediary does not receive the cost report by the required due date (including an extension if approved), the intermediary sends the first of three ''demand'' letters to the provider requesting the submission of the provider's cost report and informing the provider of the percentage by which its interim payment rate will be reduced. The letter also states that further delay in filing the cost report will result in an additional reduction in the interim rate and, ultimately, a suspension of interim payments.

HCFA regulations at 42 CFR 405.376 set forth specific rules for the payment of interest on Medicare overpayments and underpayments. Interest is assessed unless the intermediary recoups the overpayment or the intermediary pays the provider an amount equal to the underpayment within 30 days of a ''final determination.'' When a provider does not file its cost report timely, all interim payments advanced for the period are considered overpayments, and a final determination is deemed to occur on the day after the date the cost report was due. Interest accrues on the deemed overpayment until the provider files the cost report, after which the usual audit rules and procedures regarding overpayment determinations apply.

HCFA has established a Provider Statistical and Reimbursement System (PS&R) to assist intermediaries in reconciling provider cost reports. This system provides a number of reports to be used in developing and auditing provider cost reports. HCFA prepares the reports for each participating provider. These reports contain Medicare charge and reimbursement information compiled by the provider's fiscal year. One of these reports, the Provider Summary Report, is sent to providers by their intermediaries in order to assist the providers in preparing their cost reports. The Provider Summary Report contains information about charges, Medicare patient days, coinsurance, etc. HCFA requires the intermediaries to furnish the Provider Summary Report to each provider within 60 days following the end of the provider's fiscal year. The provider then has 30 days to submit its completed cost report to its intermediary (60 days if an extension has been granted.)

Another system that provides useful cost report data is the Hospital Cost Report Information System (HCRIS). For purposes of maintaining the HCRIS data base, Medicare intermediaries currently must submit an extract of provider cost report data to HCFA within either 180 days of the end of the hospital cost reporting period or 60 days of receipt of the cost report from the provider, whichever is later.

II. Summary of Provisions of the Proposed Regulation

On May 25, 1994, we published a proposed rule in the **Federal Register** (59 FR 26998) to extend the due date for filing Medicare cost reports from 3 months following the close of a provider's cost reporting period to 5 months following the close of a provider's cost reporting period. The proposed rule also defined what HCFA considers to be an ''acceptable'' cost report submission. Presented below is a detailed explanation of these proposals and several related issues that were discussed in the proposed rule.

A. Due Dates for Filing Cost Report

In response to objections from providers that believe the current 3-month time frame for filing cost reports creates an undue burden on their financial departments, we proposed to increase the amount of time a provider has to file its cost report. Presently, under § 413.24(f)(2)(i), a provider must file its cost report on or before the last day of the third month following the close of the period covered by the report. We proposed that a provider would be required to file an acceptable cost report, as defined at new § 413.24(f)(5), on or before the last day of the fifth month following the close of the period covered by the report. For cost reporting periods ending on a day other than the last day of a month, cost reports would be due 150 days after the last day of the cost reporting period. (In accordance with § 405.376(e)(3), interest would not begin to accrue until the day following the due date of the report.)

We also proposed to change the regulations at § 413.24(f)(2)(ii) that allow an intermediary to grant, for good cause, a 30-day extension of the due date after first obtaining the approval of HCFA. Instead, we proposed that extensions may be granted by the intermediary only when a provider's operations are significantly adversely affected due to extraordinary circumstances over which the provider has no control. An example of such extraordinary circumstances might be a flood or a fire that forced a provider to cease operations and transfer its patients temporarily to other providers outside of the impacted area. The intermediary would still be required to obtain HCFA approval.

In conjunction with these changes, we proposed to delete § 413.24(f)(2)(iii), which now states that the cost report from a provider that voluntarily or involuntarily ceases to participate in the Medicare program or experiences a change of ownership is due no later than 45 days following the effective date of the termination of the provider agreement or change of ownership. Instead, providers in these circumstances would be permitted the same amount of time to file a cost report as other providers.

B. Acceptable Cost Report Submissions

We proposed to define at § 413.24(f)(5) what HCFA considers to be an acceptable cost report submission. Provisions of the proposed definition are as follows:

- All providers: The provider must complete and submit the required cost reporting forms, including all necessary signatures, and also must submit all supporting documentation required by the intermediary (for example, the HCFA Form 339, Provider Cost Report Reimbursement Questionnaire, and copies of audited financial statements).
- Providers that are required to file electronic cost reports: In addition to completing and submitting the required cost reporting forms, the provider also must submit its cost report in an electronic cost report format in conformance with the requirements contained in section 130 of the Electronic Cost Report (ECR) Specifications Manual (unless the provider has received an exemption from HCFA.) These requirements include the electronic file passing all of the level-1 edits contained in the ECR Specifications Manual. An acceptable cost report submission also must include all of the appropriate signatures. (Additional instructions concerning electronic submission of cost reports can be found at § 413.24(f)(4), as set forth in our May 25, 1994 final rule with comment period (59 FR 26960).)

In addition, we proposed that the intermediary is to make a determination of acceptability within 30 days of receipt of the cost report. If the intermediary considers the cost report unacceptable, the intermediary returns it to the provider with a letter explaining the reasons for the rejection (for example, the cost report failed a

level-1 edit or included incomplete documentation). When the cost report is rejected, it is deemed an unacceptable submission and treated as if a report had never been filed. The intermediary would also inform the provider of the consequences of filing a late cost report, that is, interest would be assessed on all overpayments. Furthermore, if a provider does not file its cost report timely, all interim payments advanced for the period are considered overpayments, and the provider's interim payments would be suspended. Given the additional filing time, we believe providers should have sufficient time to complete and submit an acceptable cost report. Thus, we proposed to suspend all payments if the cost report is not filed within the 5-month timeframe. The provider should make the necessary corrections to the cost report and resubmit the cost report to the intermediary as quickly as possible.

C. Related Issues

As a result of the proposed regulation changes, the timing of provider reminder letters, PS&R Summary Reports and the submission of HCRIS data would also be affected. Therefore, we stated our intention to revise the Medicare Intermediary Manual and the PRM as necessary to account for these changes.

- Reminder Letters. Because we proposed to lengthen the amount of time a provider has to file its cost report, we also indicated that we would change the deadline for the intermediaries to send reminder letters to providers to notify them that cost reports are due. The revised deadline would be by the end of the fourth month after the close of the cost reporting period. The reminder letter may be sent at the same time an intermediary sends the PS&R Summary Report to the providers, but an intermediary may not send the reminder letter before sending the PS&R Summary Report. The reminder letter will inform the provider that if the cost report is not received by the end of the fifth month following the close of the cost reporting period (or 150 days, whichever is applicable), the provider's interim payments will be suspended in their entirety the following day, rather than just reduced (as the Medicare Intermediary Manual now provides).
- PS&R Summary Report. In conjunction with the change in the cost report due dates, we also stated our intention to revise our Manual instructions to extend the time that HCFA allows the intermediaries to furnish the PS&R Summary Report to providers. Intermediaries would be required to furnish the PS&R Summary Report by the last day of the fourth month following the end of the provider's cost reporting period, instead of 60 days following the end of the provider's cost reporting period, as is currently the practice. For cost reporting periods ending on a day other than the last day of a month, intermediaries would be required to furnish the PS&R Summary Report by the 120th day following the end of a provider's cost reporting period. If the provider receives the PS&R Summary Report later than the last day of the fourth month (or the 120th day, if applicable) following the end of its cost reporting period, the provider would have 30 days from receipt to file its cost report. Thus, under the proposed policy, a provider still would have 30 days after receipt of the PS&R Summary Report to complete and submit the cost report to the intermediary.
- HCRIS Data. Presently, the intermediary must submit HCRIS data to HCFA within either 180 days of the end of the hospital cost reporting period or 60 days of receipt of the cost report from the provider, whichever is later. In conjunction with the proposed extension of the deadline for filing a cost report, we indicated that we would revise the Medicare Intermediary Manual to instruct intermediaries to submit HCRIS data to HCFA within 210 days of the last day of the hospital cost reporting period.

In addition, we stated our intention to revise our Manual instructions to specify that if the intermediary is late in sending the PS&R Summary Report to the providers, the amount of time for the intermediary to submit the HCRIS data would be reduced by the same number of days the PS&R Summary Report was late. For example, if the intermediary sends the PS&R Summary Report to the provider 10 days late, the provider would still have 30 days from receipt of the PS&R Summary Report to file its cost report. However, the time remaining for the intermediary to submit the HCRIS data would be reduced by a corresponding 10 days (that is, from 60 to 50 days following receipt of the cost report.) In such cases, the intermediary still would have a total of 210 days from the end of the hospital cost reporting period to submit HCRIS data to HCFA.

As noted above, the overall effect of the proposal to extend the time frame for providers to file cost reports would be that HCFA would not have access to updated HCRIS data until 210 days after the end of a given cost reporting period. This change would not delay significantly the availability of the analytical files (which are updated quarterly) in HCRIS, and it should improve the accuracy of initial cost report data.

III. Discussion of Public Comments

We received 43 timely comments on the May 25, 1994 proposed rule (59 FR 26998) from providers, intermediaries, certified public accounting firms, and others. In general, commenters expressed strong support for our proposals. Specific questions raised by commenters are addressed below.

Comment: Many commenters asked when the new deadline for filing cost reports would take effect.

Response: This final rule is effective June 27, 1995. How the new 5-month deadline affects individual providers will depend on when a provider's cost reporting period ends. That is, a provider with a cost reporting period that ends before the effective date of this final rule must file its report on or before the last day of the third month following the close of the period covered by the report. A provider with a cost reporting period that ends on or after the effective date of this final rule must file its cost report on or before the last day of the fifth month following the close of the period covered by the report (or, if applicable, within 150 days of the last day of the cost reporting period).

Comment: One commenter asked that we clarify when a cost report is considered to be filed, for purposes of meeting the filing deadline. The commenter believes that the timeliness of a cost report should be determined based on when a provider sends the report rather than when the intermediary receives it. The commenter also requested clarification on when the 30-day period begins for an intermediary to determine the acceptability of a cost report.

Response: In accordance with section 2219.4C of the Medicare Intermediary Manual, a cost report must be postmarked by its due date to be considered timely filed. This requirement applies regardless of whether the provider furnishes a hard copy of its cost report or a diskette version. If a cost report is due on a Saturday, Sunday, or Federal holiday, the cost report is considered timely filed if postmarked by the following work day.

The 30 days for an intermediary to determine the acceptability of a cost report begins on the date that the intermediary receives the cost report, rather than the date the provider files it. (We generally allow up to a 7-day grace period between the postmarked date and the date the cost report is received

by the intermediary.) If a provider files a cost report early and receives a notice of rejection before the end of the fifth month, the provider would have the remaining days in that 5-month period to file a corrected cost report. If the corrected cost report is filed by the end of the fifth month, it would be considered timely. If a provider files a cost report that is rejected by the intermediary, and the provider subsequently is unable to file a corrected report before the 5-month period has elapsed, the cost report is considered late. The intermediary then initiates the suspension of interim payments and assessment of interest against payments made to the provider for the fiscal period.

Comment: One commenter suggested that we eliminate the instructions in Section 2413.A.3 of the PRM-I that permit an additional 30 days for filing a certified cost report.

Response: Under the new due date policy set forth in this rule, all cost reports are due no later than 5 months following the close of a provider's cost reporting period. In view of this change, we believe that the additional 30 days for filing a certified cost report is no longer necessary. Thus, as the commenter suggested, we intend to revise the manual accordingly.

Comment: Several commenters pointed out that providers may be required to file cost reports sooner than 5 months after the close of a cost reporting period. For example, one commenter cited a New York State requirement that providers file cost reports within 4 months of the close of their cost reporting periods, rather than within the Federal deadline of 5 months. Thus, the commenter believes that affected providers would need the PS&R Summary Reports no later than 3 months following the end of their cost reporting periods instead of the 4 months reflected in our revised policy.

Another commenter believes that providers that are reimbursed on a cost basis may choose to file their cost reports sooner than 5 months after the close of their cost reporting periods in order to avoid possible delays in lump sum adjustments and interim rate adjustments.

Response: We recognize that there may be State requirements, or other requirements, that a provider file its cost report sooner than 5 months from the last day of its cost reporting period. In these situations, a provider should contact the intermediary and request that the intermediary furnish the PS&R Summary Report to the provider 30 days before the due date of the cost report. We emphasize that it is the provider's responsibility to ascertain from the intermediary the amount of time needed for the intermediary to submit the PS&R Summary Report. The provider should make any such request early enough (as determined by the intermediary) to give the intermediary sufficient time to provide the PS&R Summary Report to the provider in time for the provider to meet its filing due date. Once again, each intermediary determines the amount of time it needs to submit the PS&R to the provider.

Thus, our general policy in situations where providers need their PS&R Summary Reports before they would normally receive them is that each provider should contact its intermediary to obtain the PS&R on an expedited basis. However, this policy could prove cumbersome in situations where most or all of an intermediary's providers face a similar State-imposed deadline, possibly resulting in a large volume of individual requests for expedited PS&Rs. In such a situation, we would strongly encourage the State to work with affected intermediaries and providers to develop a more efficient means of addressing a widespread need for PS&Rs before the reports are required under Medicare.

As a commenter suggested, some providers may wish to file their cost reports earlier than the 5-month deadline of their own accord. These providers too should contact their intermediaries with their requests that the PS&R Summary Reports be furnished earlier than the usual timeframe of 4 months after the close of a provider's cost reporting period. The providers should request the PS&R in time to allow the fiscal intermediary no less than 30 days to prepare the PS&R.

We note that an intermediary is required to provide only one PS&R Summary Report to each provider. If a provider that requests its PS&R Summary Report early subsequently requests a later PS&R, the subsequent version of the PS&R will be furnished by the intermediary at the provider's expense.

Comment: Several commenters believe that we should include situations that reasonably impact the provider's ability to file its cost report timely, such as changes in key provider personnel, among the acceptable ''circumstances beyond the provider's control'' for granting an extension to a provider for filing its cost report. Other commenters are concerned that an intermediary's operations (such as audits, desk reviews, and settlements) could impact on a provider's ability to timely file cost reports.

Response: Under revised § 413.24(f)(2)(ii), an extension of the due date for filing a cost report may be granted by the intermediary only when a provider's operations are significantly adversely affected due to extraordinary circumstances over which the provider has no control, such as flood or fire. Although this policy constitutes a more stringent standard for a filing extension than the ''good cause'' criterion that has been in effect, we believe that this change is reasonable and necessary in conjunction with the change to a 5-month deadline for filing the cost report. Even for providers that routinely have obtained 30-day ''good cause'' filing extensions beyond the previous 3-month deadline, the new 5-month deadline allows approximately 30 additional days to file a cost report.

We recognize that personnel changes create workload problems for the provider. In general, however, we consider personnel changes and varying workload demands to be acknowledged parts of any provider's business operations rather than ''circumstance over which a provider has no control.''

With regard to the commenters' concern that an intermediary's operations may impact on a provider's ability to file cost reports on a timely basis, we note that in any case where an intermediary is late in furnishing a PS&R Summary Report, a provider would always be allowed 30 days after receipt of the PS&R Summary Report to complete and submit its cost report to the intermediary.

As always, intermediaries and HCFA will consider requests for extensions on a case-by-case basis. As the regulations reflect, however, in view of the additional time now permitted for filing a cost report, we believe the standard for requesting an extension should be stringent.

Comment: Two commenters objected to our proposal that the deadline for a provider that is changing ownership or terminating to file its cost report be extended from 45 days to 5 months following change of ownership or termination. The commenters believe that this change may result in the intermediary finding it difficult to collect overpayments made to the provider.

Response: Our experience is that the current 45-day timeframe for a provider that is changing ownership or terminating often is not sufficient for an intermediary to supply the provider with its PS&R Summary Report and then for the provider to submit an accurate cost report to its intermediary. We believe that extending the due date for these providers' cost reports to 5

months following the date of termination or change of ownership, consistent with the requirement for other providers, will allow these providers sufficient time to gather and reconcile their data and submit complete and accurate cost reports. Although we recognize that the extension in the filing timeframe may result in difficulties in collecting overpayments, on balance, we believe that these potential problems are outweighed by the advantages of a consistent policy and more accurate reporting. Intermediaries should be aware of the potential for overpayment and, in the event of an overpayment, should begin collection of any overpayment at the earliest possible time.

Comment: Many commenters addressed our proposal that an intermediary submit the PS&R Summary Report to a provider within 4 months (or 120 days) of the close of the provider's cost reporting period. Several commenters requested that the due date for the PS&R Summary Report continue to be 60 days following the close of a provider's cost reporting period; others requested that the due date be extended to 90 days rather than the proposed 120 days. These commenters believe that extending the due date for the PS&R Summary Report from 60 days to 120 days offers obvious benefits to the intermediary. However, the commenters stated that it is not equitable to give the intermediary an additional 2 months to provide the PS&R Summary Report to the provider, while the provider must continue to file its cost report within 30 days of receipt of the PS&R Summary Report.

Response: The purpose of the PS&R Summary Report is to assist the providers in reconciling their data so that they can prepare and file an accurate and timely cost report. We realize that providers would like to receive the PS&R Summary Reports as early as possible. We note, however, that the providers should be maintaining ongoing records to be used for cost reporting purposes and the PS&R Summary Report should be used as a tool in reconciling these ongoing records. In our opinion, 30 days is ample time for this reconciliation.

We believe that providing an additional 60 days for intermediaries to submit PS&R Summary Reports to providers ensures that intermediaries can furnish more accurate and complete PS&R data to providers, which in turn results in providers requiring less time to reconcile the PS&R data with their records. In addition, under the new timeframes, providers will have 2 more months to prepare their books and records, complete the necessary audits, and develop the financial statements and reports that are needed before they can complete the cost reporting forms.

Of course, if the PS&R is received later than 120 days after the end of the cost reporting period, a provider still would have 30 days from the date of receipt to file its cost report.

Comment: One commenter requested that manual instructions be updated to assist intermediaries in completing the PS&R Summary Report.

Response: The Medicare Intermediary Manual, Part 2, is being revised to provide updated instructions for completing the PS&R Summary Report.

Comment: Several commenters believe that 210 days is insufficient time for an intermediary to submit HCRIS data to HCFA.

Response: Presently, the intermediary must submit HCRIS data to HCFA within either 180 days of the end of the hospital cost reporting period or 60 days of receipt of the cost report from the provider, whichever is later. The current 180-day deadline for an intermediary to submit HCRIS data to HCFA is based on the following: (1) 90 days for a provider to file its cost report, (2) 30 days for an extension of time to file (available to providers with good cause), and (3) an additional 60 days for the intermediary to submit HCRIS data to HCFA. In conjunction with the extension of the deadline for filing a cost report, we are revising the Intermediary Manual to instruct intermediaries to submit HCRIS data to HCFA within 210 days of the last day of the hospital cost reporting period. The revised deadline is based on the following: (1) 150 days for filing a cost report; and (2) 60 days for submission of HCRIS data to HCFA.

Thus, both the current process, and the new process being implemented through this final rule, give intermediaries 60 days after cost reports are filed to submit HCRIS data to HCFA. The change from an overall time frame for the submission of HCRIS data of 180 days after the close of a cost reporting period to 210 days after the close of a cost reporting period is a logical end product of the 2-month increase in the timeframe for a provider to file its cost report combined with the elimination of the routine 30-day filing extension.

These changes in no way increase the burden or time constraints on intermediaries. Rather, we believe that these changes will ease the burden on intermediaries by allowing them additional time to prepare PS&R Summary Reports, resulting in more accurate and complete PS&R data to the providers, in turn producing more accurate cost reports back to the intermediaries. We note that the continuing growth in the proportion of cost reports being filed electronically should also produce more accurate cost reporting. With these increases in accuracy, intermediaries should have to expend fewer resources in determining the acceptability of cost reports, and intermediary requests to providers for additional data to meet HCRIS requirements should be minimized. Therefore, we believe the overall 210-day timeframe for reporting HCRIS data is sufficient.

Comment: Several intermediaries are concerned about workload demands that result from a large percentage of providers having cost reporting periods that end at the same time. The commenters are concerned that, with a large percentage of their providers having common year ending dates, the time allotted for the intermediary to determine the acceptability of these cost reports is insufficient.

One commenter is concerned that its current workload patterns will be disrupted by our revised policy of allowing providers an additional 2 months to submit their cost reports.

Response: We recognize that some intermediaries have many providers with common year-ending dates, resulting in cyclical increases in an intermediary's workload. The change in the cost reporting deadline will have an impact on when these cyclical periods of increased workload occur, but not on the amount of work involved. In fact, as discussed above, the extended time frames for cost report submission should result in increased accuracy and, consequently, fewer resources being expended by the intermediary in determining the acceptability of the provider's cost report. The requirement that hospitals file their cost reports electronically (see our May 25, 1994 final rule (59 FR 26960)), combined with the continued growth in electronic filing among other providers, will also contribute to reducing the workload associated with determining the acceptability of cost reports. Thus, we believe that intermediaries should be able to determine the acceptability of cost reports within 30 days of receiving them, even when the intermediary receives many reports concurrently.

We recognize that the current workload patterns of intermediaries will undergo a one-time disruption as a result of the new cost reporting deadline. In the short-term, this change may inconvenience some intermediaries, while benefiting others, depending to some extent on when cost reporting years end for each

intermediary's various providers. In the long run, however, we believe that extending the cost reporting deadline and the accompanying increases in the accuracy of cost reports, should prove advantageous to both intermediaries and providers.

Comment: A commenter is concerned that electronically-filed cost reports may not be compatible with intermediary software, possibly making it difficult for an intermediary to produce a hard copy of the cost report. The commenter also requested further clarification regarding rejection of the cost report for failure to pass level-1 edits as well as for failure to furnish the supporting documentation that a provider must submit with the cost report.

Response: As discussed in section II.B of this preamble, a provider that files an electronic cost report must submit its cost report in an electronic format in conformance with the requirements contained in section 130 of the Electronic Cost Report (ECR) Specifications Manual (unless the provider has received an exemption from HCFA.) These requirements include the electronic file passing all of the fatal (level-1) edits contained in the ECR Specifications Manual.

The criteria for an acceptable electronic cost report also are addressed in chapter 1 of the PRM–II, which discusses the required format for electronic filing and the procedures for specialized providers, such as providers with all-inclusive rate structures and low-Medicare utilization providers. (See Chapter 28 of the PRM–II for the specified level-1 edits.) All Automated Data Reporting (ADR) vendors and commercial vendors must adhere to these edits when developing the software used by the provider to create the electronic cost report file. In view of the requirement that vendor, provider and intermediary software be compatible, and the requirement that an acceptable cost report must pass all level-1 edits, we do not anticipate that intermediaries will have difficulty in producing a hard copy of the cost reports.

The requirements for supporting documentation that each provider type must submit with its cost report are set forth in various chapters of the PRM–II. In the May 25, 1994 proposed rule (59 FR 27002), we specified under proposed § 413.24(f)(5)(i) that in order for a cost report submission to be considered acceptable, a provider must submit the required cost reporting forms and all supporting documentation required by program instructions. Under proposed 413.24(f)(5)(iii), any cost report not considered acceptable would be rejected and thus treated as if it had never been filed.

As we considered the public comments and developed this final rule, we realized that it was not necessary or efficient for an intermediary to reject a cost report summarily based solely on the initial absence of complete supporting documentation. Therefore, we have revised proposed § 413.24 by deleting the provision that a cost report must include all required supporting documentation to be considered acceptable and thus avoid rejection. We believe that this change will benefit both intermediaries and providers by permitting the intermediary's review process to continue in cases where a provider inadvertently fails to submit complete supporting documentation.

We emphasize that, despite this change, providers remain responsible for submitting all supporting documentation required under applicable program instructions. However, we are instructing intermediaries that a cost report is to be rejected for lack of supporting documentation only if it does not include the Provider Cost Reimbursement Questionnaire (HCFA Form 339). Additionally, cost reports for teaching hospitals will be rejected for lack of supporting documentation if the cost report does not include a copy of the Intern and Resident Information System (IRIS) diskette. These requirements now are specified in the Uniform Desk Review Program published in Part 4 of the Medicare Intermediary Manual, and we are now setting them forth under § 413.24(f)(5) as well. Otherwise, if a cost report does not include required supporting documentation, the intermediary contacts the provider in writing and requests the missing supporting documentation. If the documentation is not received from the provider within 15 days from the date of receipt of the intermediary request (allowing 7 days for mailing), the intermediary may begin suspending payments until the supporting documentation is received. We are revising the Medicare Intermediary Manual and chapter 1 of the PRM–II to reflect this policy.

Comment: One commenter stated that the requirement that a provider submit supporting documentation may be in conflict with the American Institute of Certified Public Accountant (AICPA) recommendations concerning proper disclosure. The commenter believes that the required supporting documentation could be considered confidential.

Response: To carry out the settlement process, an intermediary must request sufficient documentation to assure the accuracy and allowability of costs reported on the cost report. We do not believe that this information is necessarily confidential in nature. Nevertheless, the intermediary will retain the data and maintain its confidentiality. Generally, the release of provider information is limited to that information contained in the provider's cost report. Supporting documentation, or documentation obtained through audit, is not considered releasable to the public under the Freedom of Information Act.

IV. Provisions of the Final Regulations

This rule adopts the provisions of the proposed rule as final with the exception of one change at § 413.24(f)(5)(i) concerning our proposed definition of an acceptable cost report submission. As discussed above in section III, we have eliminated the proposed requirement that a cost report must include all supporting documentation in order to be considered an acceptable submission.

V. Impact Statement

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless we certify that a final rule will not have a significant economic impact on a substantial number of small entities. This final rule extends from 3 months to 5 months after the close of a cost reporting period the time frame for providers to file their cost reports. It also defines what HCFA considers to be an ''acceptable'' cost report submission. Neither of these changes will have a significant economic impact on providers. Therefore, we have determined, and we certify, that this rule would not have a significant effect on a substantial number of small entities. Thus, we are not preparing a regulatory flexibility analysis.

Section 1102(b) of the Act requires us to prepare a regulatory impact statement if a final rule may have a significant economic impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

We are not preparing a regulatory impact statement since we have determined, and we certify, that this final rule would not have a significant economic impact on the operations of a

substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this regulation was not reviewed by the Office of Management and Budget.

VI. Other Required Information

A. Waiver of 30–Day Delay in Effective Date

We normally provide a delay in the effective date of 30 days after publication for final rules. However, we may waive the delay in the effective date if we find good cause that a delay in the effective date is impracticable, unnecessary, or contrary to the public interest.

As explained above, this final rule extends the time frame for providers to file cost reports from 3 months after the close of a cost reporting period to 5 months after the close of a cost reporting period. We believe this change will be beneficial to providers and that a delay in implementing this change would serve no purpose. Thus, we have concluded that in this instance it would be unnecessary and contrary to the public interest to provide for a 30-day delay in the effective date of this final rule. Therefore, we find good cause to waive the usual 30-day delay in effective date.

B. Paperwork Reduction Act

Section 413.24 contains information collection and recordkeeping requirements concerning provider cost reports that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). The burdens associated with filing cost reports have been approved by OMB. This final rule merely changes the date on which cost reports are due and thus has no effect on the information collection and recordkeeping burden. However, the information collection and recordkeeping requirements contained in § 413.24 are not effective until they have been approved by OMB. We will publish a notice in the **Federal Register** when OMB approval has been obtained. Organizations and individuals desiring to submit comments on the information collection and recordkeeping requirements set forth in § 413.24 should direct them to the Office of Management and Budget, Human Resources and Housing Branch, Room 10235, New Executive Office Building, Washington, D.C., 20503, Attention: Allison Eydt (desk officer for HCFA).

List of Subjects in 42 CFR Part 413

Health facilities, Kidney diseases, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

42 CFR Chapter IV, part 413, is amended as follows:

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES

1. The authority citation for part 413 continues to read as follows:

Authority: Secs. 1102, 1122, 1814(b), 1815, 1833 (a), (i), and (n), 1861(v), 1871, 1881, 1883, and 1886 of the Social Security Act (42 U.S.C. 1302, 1320a–1, 1395f(b), 1395g, 13951 (a), (i), and (n), 1395x(v), 1395hh, 1395rr, 1395tt, and 1395ww).

Subpart B—Accounting Records and Reports

2. In § 413.24, paragraph (f)(2) is revised, and a new paragraph (f)(5) is added to read as follows:

§ 413.24 Adequate cost data and cost finding

* * * * *

(f) * * *

(2) *Due dates for cost reports.* (i) Cost reports are due on or before the last day of the fifth month following the close of the period covered by the report. For cost reports ending on a day other than the last day of the month, cost reports are due 150 days after the last day of the cost reporting period.

(ii) Extensions of the due date for filing a cost report may be granted by the intermediary only when a provider's operations are significantly adversely affected due to extraordinary circumstances over which the provider has no control, such as flood or fire.

* * * * *

(5) An acceptable cost report submission is defined as follows:

(i) All providers—The provider, must complete and submit the required cost reporting forms, including all necessary signatures. A cost report is rejected for lack of supporting documentation only if it does not include the Provider Cost Reimbursement Questionnaire. Additionally, a cost report for a teaching hospital is rejected for lack of supporting documentation if the cost report does not include a copy of the Intern and Resident Information System diskette.

(ii) For providers that are required to file electronic cost reports—In addition to the requirements of paragraphs (f)(4) and (f)(5)(i) of this section, the provider must submit its cost reports in an electronic cost report format in conformance with the requirements contained in the Electronic Cost Report (ECR) Specifications Manual (unless the provider has received an exemption from HCFA).

(iii) The intermediary makes a determination of acceptability within 30 days of receipt of the provider's cost report. If the cost report is considered unacceptable, the intermediary returns the cost report with a letter explaining the reasons for the rejection. When the cost report is rejected, it is deemed an unacceptable submission and treated as if a report had never been filed.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: May 30, 1995.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 95–15340 Filed 6–26–95; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95–24; RM–8583]

Radio Broadcasting Services; Clarendon, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of ROHO Broadcasting, allots Channel 257C2 to Clarendon, Texas, as the community's first local aural transmission service. *See* 60 FR 10534, February 27, 1995. Channel 257C2 can be allotted to Clarendon, Texas, in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 257C2 at Clarendon are 34–56–16 and 100–53–16. With this action, this proceeding is terminated.

DATES: Effective August 7, 1995. The window period for filing applications will open on August 7, 1995, and close on September 7, 1995.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 95–24, adopted June 13, 1995, and released June 22, 1995. The full text of this

Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Clarendon, Channel 257C2.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–15672 Filed 6–26–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 91–259; RM–7309, RM–7942, RM–7943, RM–7944, RM–7948]

Radio Broadcasting Services; Canovanas, Culebra, Las Piedras, Mayaguez, Quebradillas, San Juan, and Vieques, PR, and Christiansted and Frederiksted, VI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Carlos J. Colon-Ventura, substitutes Channel 252A for Channel 255B at Vieques, PR, reallots Channel 252A from Vieques to Las Piedras, PR, and modifies the license of Station WSAN to specify operation on Channel 252A at Las Piedras. At the request of Jose J. Arzuaga, the Commission substitutes Channel 258A for Channel 252A at Quebradillas, PR, and modifies the license of Station WQQZ to specify operation on the alternate Class A channel. At the request of Amor Family Broadcasting Group, the Commission allots Channel 251A to Santa Isabel, PR, as the community's first local aural transmission service. At the request of V.I. Stereo Communications Corp., the Commission reallots Channel 291B from Christiansted, V.I. to Vieques, PR, and modifies the license of Station WVIS to specify Vieques as its community of license, substitutes Channel 254A for Channel 293A at Culebra, PR, and modifies the outstanding construction permit of Aurio A. Matos to specify operation on the alternate Class A channel. At the request of Luis Hernandez, the Commission allots Channel 253A to Frederiksted, V.I., as the community's second local aural transmission service. To accommodate the above allotments, the Commission also substitutes Channel 254B for Channel 256B at Mayaguez, PR, modifies the license of Station WKJB-FM to specify operation on the alternate Class B channel, substitutes Channel 256B for Channel 253B at San Juan, PR, and modifies the license of Station WPRM-FM to specify operation on the alternate Class B channel. *See also* Supplementary Information, *infra*. With this action, this proceeding is terminated.

DATES: Effective August 7, 1995. The window period for filing applications will open on August 7, 1995, and close on September 7, 1995.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 91–259, adopted June 13, 1995, and released June 22, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Channel 251A can be allotted to Santa Isabel with a site restriction of 3.6 kilometers (2.3 miles) east, at coordinates North Latitude 17–58–12 and West Longitude 66–22–09, to avoid a short-spacing to Channel 254B at Mayaguez. Channel 291B can be allotted to Vieques without the imposition of a site restriction, at 18–19–39; 65–18–05. Channel 254A can be allotted to Culebra without the imposition of a site restriction, at 18–18–18; 65–18–06. Channel 252A can be allotted to Las Piedras with a site restriction of 14.6 kilometers (9.1 miles) northwest, at 18–16–14; 65–45–33, to avoid short-spacings to Station WBRQ, Channel 249A, Cidra, PR, and to Channel 251A at Santa Isabel. Channel 258A can be allotted to Quebradillas at Station WQQZ's present transmitter site, at 18–23–33; 66–59–46. Channel 254B can be allotted to Mayaguez at Station WKJB's present transmitter site at 18–09–05; 66–59–19. Channel 256B can be allotted to San Juan at Station WPRM-FM's present transmitter site, at 18–06–45; 66–03–07. Channel 253A can be allotted to Frederiksted, V.I., without the imposition of a site restriction, at 17-42-48; 64–53–00.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Puerto Rico, is amended by removing Channel 293A and adding Channel 254A at Culebra, removing Channel 256B and adding Channel 254B at Mayaguez; removing Channel 252A and adding Channel 258A at Quebradillas; removing Channel 253B and adding Channel 256B at San Juan; removing Channel 255B and adding Channel 291B at Vieques, and by adding Las Piedras, Channel 252A, by adding Santa Isabel, Channel 251A.

3. Section 73.202(b), the Table of FM Allotments under the Virgin Islands, is amended by removing Channel 291B at Christiansted and adding Channel 253A at Frederiksted.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–15671 Filed 6–26–95; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF DEFENSE

48 CFR Part 246

Defense Federal Acquisition Regulation Supplement; Contract Quality Requirements

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comment.

SUMMARY: The Director of Defense Procurement has issued an interim rule amending the Defense Federal

Acquisition Regulation Supplement (DFARS) to encourage increased use of commercial quality standards in DoD contracts.

DATES: *Effective date:* June 13, 1995.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before August 28, 1995, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Mr. Richard G. Layser, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax number (703) 602–0350. Please cite DFARS Case 95–D007 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Layser, (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

Current DoD initiatives to merge the Defense and private sector industrial base require increased use of commercial standards and recognition of contractor quality systems. This interim rule amends DFARS Part 246 to encourage increased use of commercial quality standards by removing existing requirements to use military quality standards in DoD contracts. The rule revises the definition of ''quality program''; replaces direct references to MIL–I–45208 and MIL–Q–9858 with references to higher-level quality requirements; and deletes Table 46–1, Contract Quality Requirements Guide.

B. Regulatory Flexibility Act

This interim rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule encourages increased use of commercial quality standards. The rule will enable contractors to use a single quality system in their facilities, rather than maintaining duplicative commercial and military quality systems. This is expected to result in lower costs, as well as improved process capability, process controls, and product quality. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and may be obtained from the address stated herein. A copy of the IRFA has been submitted to the Chief Counsel for Advocacy of the Small Business Administration. Comments from small entities concerning the affected DFARS subparts will be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 95–D007 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this interim rule does not impose any new information collection requirements which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that compelling reasons exist to publish this interim rule prior to affording the public an opportunity to comment. This action is necessary to permit the Government and industry to realize, as soon as possible, the significant cost savings anticipated from allowing contractors to maintain a single quality system in their facilities. Comments received in response to the publication of this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Part 246

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 246 is amended as follows:

1. The authority citation for 48 CFR Part 246 is revised to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR chapter 1.

PART 246—QUALITY ASSURANCE

2. Section 246.101 is amended by revising the definition of ''Quality program'' to read as follows:

246.101 Definitions.

* * * * *

Quality program is a program which is developed, planned, and managed to carry out cost-effectively all efforts to effect the quality of materials and services from concept exploration and definition through demonstration and validation, engineering and manufacturing development, production and deployment, and operations and support.

3. Section 246.102 is amended by adding a second sentence in paragraph (4) to read as follows:

246.102 Policy.

* * * * *

(4) * * * Contractor quality programs may be modeled on military, commercial, national, or international quality standards.

4. Section 246.202–3 is revised to read as follows:

246.202–3 Higher-level contract quality requirements.

(i) Higher-level contract quality requirements are used in addition to a standard inspection requirement.

(ii) Higher-level contract quality requirements, including nongovernment quality system standards adopted to meet DoD needs, are listed in the DoD Index of Specifications and Standards.

5. Section 246.204 is revised to read as follows:

246.204 Application of criteria.

When purchasing a commercial item, the technical, quality assurance, and contracting activities must work together to tailor contract quality requirements to—

(1) Eliminate or minimize special Government testing, quality control, and inspection requirements. Consider—

(i) The item's application;

(ii) The cost objectives of the acquisition; and

(iii) The item's reliability as established in the commercial market;

(2) Maximize use of the certificate of conformance consistent with FAR 46.504; and

(3) Provide for examination and acceptance at the most economical point (source or destination).

6. Section 246.704 is amended by revising paragraph (4) to read as follows:

246.704 Authority for use of warranties.

* * * * *

(4) Supplies and services in fixed-price type contracts containing quality assurance provisions that reference higher-level contract quality requirements (see 246.202–3); or

* * * * *

[FR Doc. 95–15252 Filed 6–26–95; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 544

[Docket No. 95–004; Notice 3]

RIN 2127–AE94

Insurer Reporting Requirements; List of Insurers Required to File Reports

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: In this final rule, NHTSA publishes an update to its list in

Appendices A, B, and C of part 544 of passenger motor vehicle insurers that are required to file reports on their motor vehicle theft loss experiences, pursuant to 49 U.S.C. section 33112. Each insurer listed in these appendices must file a report for the 1992 calendar year not later than October 25, 1995. Further, as long as they remain listed, they must submit reports on each subsequent October 25.

DATES: The final rule on this subject is effective July 27, 1995.

Reporting Date: Insurers listed in the appendices are required to submit reports on their calendar year 1992 experience, which is due October 25, 1995. Previously listed insurers whose names are removed by this notice need not submit reports for that year. Insurers newly listed in this final rule must submit their reports for calendar year 1992 on or before October 25, 1995. Under part 544, as long as an insurer is listed, it must file reports each October 25. Thus, any insurer listed in the appendices as of the date of the most recent final rule must file a report on the following October 25, and on each succeeding October 25, absent a further amendment removing the insurer's name from the appendices.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara A. Gray, Office of Market Incentives, NHTSA, 400 Seventh St., SW., Washington, DC 20590. Ms. Gray's telephone number is (202) 366–1740. Her fax number is (202) 366–4329.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 49 U.S.C. section 33112, *Insurer reports and information*, NHTSA requires certain passenger motor vehicle insurers to file an annual report with NHTSA unless the agency exempts the insurer from filing such reports. Each insurers' report includes information about thefts and recoveries of motor vehicles, the rating rules used by the insurer to establish premiums for comprehensive coverage, the actions taken by the insurer to reduce such premiums, and the action taken by the insurer to reduce or deter theft. Under the agency's implementing regulation, part 544, the following insurers are subject to the reporting requirements: (1) Those issuers of motor vehicle insurance policies whose total premiums account for 1 percent or more of the total premiums of motor vehicle insurance issued within the United States; (2) those issuers of motor vehicle insurance policies whose premiums account for 10 percent or more of total premiums written within any one State; and (3) rental or leasing companies with a fleet of 20 or more vehicles not covered by theft insurance policies issued by insurers of motor vehicles, other than any governmental entity.

Pursuant to its statutory exemption authority, the agency has exempted smaller passenger motor vehicle insurers from the reporting requirements.

A. Small Insurers of Passenger Motor Vehicles

Section 33112(f)(2) provides that the agency shall exempt small insurers of passenger motor vehicles if NHTSA finds that such exemptions will not significantly affect the validity or usefulness of the information in the reports, either nationally or on a State-by-State basis. The term ''small insurer'' is defined in section 33112(f)(1)(A) and (B) as an insurer whose premiums for motor vehicle insurance issued directly or through an affiliate, including pooling arrangements established under State law or regulation for the issuance of motor vehicle insurance account for less than 1 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States. However, that section also stipulates that if an insurance company satisfies this definition of a ''small insurer,'' but accounts for 10 percent or more of the total premiums for all motor vehicle insurance issued in a particular State, the insurer must report about its operations in that State.

As described in the final rule establishing the requirement for insurer reports (52 FR 59, January 2, 1987), in 49 CFR part 544, NHTSA exercises its exemption authority by listing in Appendix A each insurer which must report because it had written at least 1 percent of the motor vehicle insurance premiums nationally. Listing the insurers subject to reporting instead of each insurer exempted from reporting because it had less than 1 percent of the premiums nationally is administratively simpler since the former group is much smaller than the latter. In Appendix B, NHTSA lists those insurers that are required to report for particular States because each insurer had a 10 percent or greater market share of motor vehicle premiums in those States. In the January 1987 final rule, the agency stated that Appendices A and B will be updated annually. It has been NHTSA's practice to update the appendices based on data voluntarily provided by insurance companies to A. M. Best, and made available to the agency each spring. The agency uses the data to determine the insurers' market share nationally and in each State.

B. Self-Insured Rental and Leasing Companies

In addition, upon making certain determinations, NHTSA is authorized to grant exemptions to self insurers, i.e., any person who has a fleet of 20 or more vehicles (other than any governmental entity) which are used primarily for rental or lease and which are not covered by theft insurance policies issued by insurers of passenger motor vehicles, 49 U.S.C. 33112(e) (1) and (2). NHTSA may exempt a self insurer from reporting, if the agency determines:

(1) The cost of preparing and providing the information is excessive in relation to the size of the insurer's business; and

(2) the information from that insurer will not contribute significantly to carrying out chapter 331.

Conversely, NHTSA may not exempt a self insurer solely based on meeting the definition of insurer as defined in section 33112(b)(1).

In a final rule published June 22, 1990 (55 FR 25606), the agency granted a class exemption to all companies that rent or lease fewer than 50,000 vehicles because it believed that reports from only the largest companies would sufficiently represent the theft experiences of rental and leasing companies. NHTSA concluded that reports by the many smaller rental and leasing companies do not significantly contribute to carrying out NHTSA's statutory obligations, and that exempting such companies will relieve an unnecessary burden on most companies that potentially must report. As a result of the June 1990 final rule, the agency added a new Appendix C, which consists of an annually updated list of the self insurers that are subject to part 544.

Following the same approach as in the case of Appendix A, NHTSA has included in Appendix C each of the relatively few self insurers which are subject to reporting instead of listing relatively numerous self insurers that are exempted. NHTSA updates Appendix C based on information from the publications *Automotive Fleet Magazine* and *Travel Business Travel News.*

Notice of Proposed Rulemaking

(1) Insurers of Passenger Motor Vehicles

On January 19, 1995, NHTSA published a notice of proposed rulemaking (NPRM) to update the list of insurers in Appendices A, B, and C required to file reports (See 60 FR 3830). Based on the 1992 calendar year market share data provided by A.M. Best, NHTSA proposes to amend the listing in

Appendix A of insurers which must report because each had written at least one percent of the motor vehicle insurance premiums on a national basis. The list was last amended in a notice published on December 1, 1993 (See 58 FR 63299). One company, United States F & G Group, included in the December 1993 listing, was proposed to be removed from Appendix A. Three companies, General ACC Group, Hanover Insurance Companies, and Safeco Insurance Companies, that were not listed in Appendix A, were proposed to be added.

Each of the 19 insurers listed in Appendix A in this notice would be required to file a report not later than October 25, 1995, setting forth the information required by part 544 for each State in which it did business in the 1992 calendar year. As long as those 19 insurers remain listed, they would be required to submit reports on each subsequent October 25 for the calendar year ending slightly less than 3 years before.

Appendix B lists those insurers that would be required to report for particular States for the calendar year 1992, because each insurer had a 10 percent or greater market share of motor vehicle premiums in those States. Based on the 1992 calendar year A.M. Best data for market shares, it was proposed that one company, Farm Bureau Mutual Insurance Company, Inc., (Kansas Farm Bureau Group (Farm Bureau)), reporting on its activities in the State of Kansas be added to Appendix B.

The 12 insurers listed in Appendix B of this notice would be required to report on their calendar year 1992 activities in every State in which they had a 10 percent or greater market share. These reports must be filed no later than October 25, 1995, and set forth the information required by part 544. As long as those 12 insurers remain listed, they would be required to submit reports on each subsequent October 25 for the calendar year ending slightly 3 years before.

(2) Rental and Leasing Companies

Based on information in *Automotive Fleet Magazine* and *Travel Trade Business Travel News* for 1992, the most recent year that data are available, NHTSA proposes no changes be made in Appendix C. Accordingly, each of the 10 companies (including franchisees and licensees) listed in this notice in Appendix C would be required to file reports for the calendar year 1992 no later than October 25, 1995, and set forth the information required by part 544. As long as those 10 companies remain listed, they would be required to submit reports on each subsequent October 25 for the calendar year ending slightly less than 3 years before.

NHTSA notes that on July 5, 1994, the Cost Savings Act, (including Title VI-Theft Prevention) was revised and codified ''without substantive change.'' The passenger motor vehicle theft insurers' reporting provisions, formerly at 15 U.S.C. 2032 are now at 49 U.S.C. 33112. This final rule amends part 544 to reflect the changed statutory authority.

Public Comments and Final Determination

1. Insurers of Passenger Motor Vehicles

In response to the NPRM, the agency received responses from two commentors. Both commentors were companies listed in the January 1995 NPRM. Each commentor questioned the appropriateness of its inclusion in one of the appendices.

No comments were received objecting to the deletion of United States F & G Groups from Appendix A. Accordingly, it has been deleted.

Hanover Insurance Companies (Hanover) wrote to request that it not be included in Appendix A. As stated, NHTSA's proposal to include Hanover was based on market share data provided by A. M. Best. Hanover wrote that for 1992 the total premiums for all forms of motor vehicle insurance issued by Hanover and its affiliates were 1,031,862,294 or .97 percent of the entire market. Hanover believes that because the company and its affiliates wrote less than one percent of the total motor vehicle insurance premiums written by all insurers in 1992 that granting an exemption would not significantly affect the validity or usefulness of the information of the reports.

The agency notes that Hanover's total written premiums are less than 1 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States in 1992. Since Hanover does not meet the criteria for inclusion, NHTSA determines that Hanover should not be added to Appendix A.

Farm Bureau Mutual Insurance Company, Inc., (Kansas Farm Bureau Group (Farm Bureau)) wrote that it not be included in Appendix B. As a rationale, Farm Bureau stated that its market share for 1992 was 10.3 percent, however for 1993 the market share was 9.8 percent.

Farm Bureau stated that because a moratorium was placed on its new auto business in 1993, it believes its market share will decrease for 1994. Thus, Farm Bureau stated it met the 10 percent requirement for only one year. Farm Bureau believes because it has ''very few'' auto theft claims, and since it will be reporting for only one year, it questions the relevance of providing its statistical data for the purposes of the law. Additionally, Farm Bureau stated that major catastrophes struck the property casualty industry. In 1992, storm claims (tornados) were paid in Kansas totalling in excess of one billion dollars. Farm Bureau has been faced with major financial responsibilities to its policyholders. Therefore, it believes the cost of preparing and furnishing this report (for only one year) is excessive in relation to the size of its business.

As required by 49 U.S.C. 33112(f)(1)(B), a small insurer means an insurer whose premiums for motor vehicle insurance account for less than 10 percent of the total premiums for all forms of motor vehicle insurance issued by insurers in any State. Additionally, section 33112 provides that if an insurance company satisfies the section's definition of small insurer nationally, but accounts for 10 percent or more of the total premiums for all forms of motor vehicle insurance issued by insurers within a particular State, such insurer must report this information about its operation in that State. Therefore, Farm Bureau does not qualify as a ''small insurer'' because its total premiums written exceeds 10 percent of the total written in Kansas. Since Farm Bureau does not meet the exemption criterion of less than 10 percent of the total premiums written within the State, Farm Bureau should remain listed on Appendix B. However, section 33112(f)(2) states that the Secretary (NHTSA) ''* * * shall exempt by regulation a small insurer from this section if the Secretary finds that the exemption will not significantly affect the validity or usefulness of the information collected and compiled under this section, nationally or State-by-State.''

Based on Farm Bureau's petition that auto theft claims are 1.3 percent and less than .75 of the 1 percent of its total claims paid, coupled with the financial burdens inflicted on the industry (in Kansas), the agency has determined the exemption authority provided in section 33112(e)(1) and (2) can be applied. Therefore, the agency believes that the cost of preparing and furnishing this report would be excessive in relation to the size of the insurer's business, and the information would not contribute *significantly* to carrying out NHTS's statutory obligations. Further, by exempting Farm Bureau, it will be relieved of an unnecessary burden.

Given that Farm Bureau Mutual Insurance Co., is removed from Appendix B.

2. Rental and Leasing Companies

Based on information in Automotive Fleet Magazine and Travel Trade Business Travel News for 1992, the most recent year for which data are available, NHTSA proposes no changes in Appendix C. Accordingly, each of the 10 companies (including franchisees and licensees) listed in the final rule in Appendix C are required to file reports for calendar year 1992 no later than October 25, 1995, and set forth in the information required by part 544. As long as those 10 companies remain listed, they are required to submit reports on or before each subsequent October 25 for the calendar year ending slightly less than 3 years before.

After reviewing the public comments and, as discussed above, making the appropriate adjustments to Appendices A and B, NHTSA has determined that each of the 18 insurers listed in Appendix A, each of the 11 insurers listed in Appendix B, and each of the 10 insurers listed in Appendix C, are required to submit an insurers report under part 544. Each listed insurer must report on its experience for calendar year 1992, and set forth the information required by 49 CFR part 544.

Regulatory Impacts

(1) Costs and Other Impacts

This notice has not been reviewed under Executive Order 12866. NHTSA has considered the impact of this final rule and has determined the action not to be ''significant'' within the meaning of the Department of Transportation's regulatory policies and procedures. This rule implements the agency's policy of ensuring that all insurance companies that are statutorily eligible for exemption from the insurer reporting requirements are in fact exempted from those requirements. Only those companies that are not statutorily eligible for an exemption are expressly required to file reports.

NHTSA does not believe that this rule, reflecting more current data, affects the impacts described in the final regulatory evaluation prepared for the final rule establishing part 544 (52 FR 59, January 2, 1987). Accordingly, a separate regulatory evaluation has not been prepared for this rulemaking action. Using the cost estimates in the 1987 final regulatory evaluation, the agency estimates that the cost of compliance will be about $50,000 for any insurer that is added to Appendix A, about $20,000 for any insurer added to Appendix B, and about $5,770 for any insurer added to Appendix C. In this final rule, for Appendix A, the agency removed one insurer and added two insurers; for Appendix B, the agency made no changes; and for Appendix C, the agency made no changes. The agency therefore estimates that the net effect of this final rule will be a cost increase to insurers, as a group, of less than $100,000.

Interested persons may wish to examine the 1987 final regulatory evaluation. Copies of that evaluation have been placed in Docket No. T86–01; Notice 2. Any interested person may obtain a copy of this evaluation by writing NHTSA, Docket Section, Room 5109, 400 Seventh Street S.W., Washington D.C. 20590, or by calling (202) 366–4949.

(2) Paperwork Reduction Act

The information collection requirements in this final rule have been submitted to and approved by the Office of Management and Budget (OMB) pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501*et seq.*) This collection of information has been assigned OMB Control Number 2127–0547 (''Insurer Reporting Requirements'') and has been approved for use through October 31, 1996.

(3) Regulatory Flexibility Act

The agency has also considered the effect of this rulemaking under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) I certify that this final rule will not have a significant economic impact on a substantial number of small entities. The rationale of this certification is that none of the companies included on Appendices A, B, or C would be construed to be a small entity within the definition of the RFA. ''Small insurer'' is defined in part under 49 U.S.C. 33112 as any insurer whose premiums for motor vehicle insurance account for less than one percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States, or any insurer whose premiums within any State, account for less than 10 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the State. This notice would exempt all insurers meeting those criteria. Any insurer too large to meet those criteria is not a small entity. In addition, in this rulemaking, the agency has exempted, by rule, all ''self insured rental companies'' that have fleets of fewer than 50,000 vehicles. Any self insured rental and leasing company too large to meet that criterion is not a small entity.

(4) Federalism

This action has been analyzed in accordance with the principle and criteria contained in Executive Order 12612, and it has been determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

(5) Environmental Impacts

In accordance with the National Environmental Policy Act, NHTSA has considered the environmental impacts of this final rule and determined that it will not have a significant impact on the quality of the human environment.

(6) Civil Justice Reform

This final rule does not have any retroactive effect, and it does not preempt any State law. 49 U.S.C. 33117 provides that judicial review of this rule may be obtained pursuant to 49 U.S.C. 32909. Section 32909 does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 544

Crime, Insurance companies, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 544 is amended as follows:

PART 544—[AMENDED]

1. The authority citation for part 544 is revised to read as follows:

Authority: 49 U.S.C. 33112; delegation of authority at 49 CFR 1.50.

2. Section 544.2 *Purpose.* is revised to read as follows:

§ 544.2 Purpose.

The purpose of these reporting requirement is to aid in implementing and evaluating the provisions of 49 U.S.C. chapter 331 Theft Prevention to prevent or discourage the theft of motor vehicles, to prevent or discourage the sale or distribution in interstate commerce of used parts removed from stolen motor vehicles, and to help reduce the cost to consumers of comprehensive insurance coverage for motor vehicles.

3. Paragraph (a) of § 544.4 Definitions is revised to read as follows:

§ 544.4 Definitions.

(a) *Statutory terms.* All terms defined in 49 U.S.C. 33101 and 33112 are used in accordance with their statutory

meanings unless otherwise defined in paragraph (b) of this section.

* * * * *

4. Paragraph (a) of § 544.5 is revised to read as follows:

§ 544.5 General requirements for reports.

(a) Each insurer to which this part applies shall submit a report annually not later than October 25, 1986. The report shall contain the information required by § 544.6 of this part for the calendar year three years previous to the year in which the report is filed (e.g., the report due October 25, 1995 shall contain the required information for the 1992 calendar year).

* * * * *

5. Appendix A to part 544 is revised to read as follows:

Appendix A—Insurers of Motors Vehicle Insurance Policies Subject to the Reporting Requirements in Each State in Which They Do Business

Aetna Life & Casualty Group
Allstate Insurance Group
American Family Group
American International Group
California State Auto Association
CNA Insurance Companies
Farmers Insurance Group
Geico Corporation Group
General ACC Group*
ITT Hartford Insurance Group
Liberty Mutual Group
Nationwide Group
Progressive Group
Prudential of America Group
Safeco Insurance Companies*
State Farm Group
Travelers Insurance Group
USAA Group

6. Appendix B to part 544 is revised to read as follows:

Appendix B—Issuers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements Only in Designated States

Alfa Insurance Group (Alabama)
Amica Mutual Insurance Company (Rhode Island)
Arbella Mutual Insurance (Massachusetts)
Auto Club of Michigan Group (Michigan)
Commerce Group, Inc. (Massachusetts)
Commercial Union Insurance Companies (Maine)
Concord Group Insurance Companies (Vermont)
Erie Insurance Companies (Pennsylvania)
Kentucky Farm Bureau Group (Kentucky)
Southern Farm Bureau Casualty Group (Arkansas, Mississippi)
Tennessee Farmers Companies (Tennessee)

7. Appendix C to part 544 is republished to read as follows:

Appendix C—Motor Vehicle Rental and Leasing Companies (Including Licensees and Franchisees) Subject to the Reporting Requirements of Part 544

Alamo Rent-A-Car, Inc.
American International Rent-A-Car Corp./ ANSA
Avis, Inc.
Budget Rent-A-Car Corporation
Dollar Rent-A-Car Systems, Inc.
Hertz Rent-A-Car Division (subsidiary of Hertz Corporation)
National Car Rental System, Inc.
Penske Truck Leasing Company
Ryder System, Inc. (both rental and leasing operations)
U-Haul International, Inc. (subsidiary of AMERCO)

Issued on: June 16, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–15524 Filed 6–26–95; 8:45 am]

BILLING CODE 4910–59–P

* Indicates a newly listed insurer which must file a report beginning with the report due October 25, 1995.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 950509041–5041–01; I.D. 061995C]

Groundfish of the Gulf of Alaska; Pacific Ocean Perch in the Central Regulatory Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for Pacific ocean perch (POP) in the Central Regulatory Area in the Gulf of Alaska (GOA). This action is necessary to use the total allowable catch (TAC) for POP in this area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), July 3, 1995, until 12 midnight, A.l.t., December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with § 672.20(c)(1)(ii)(B), the annual TAC for POP in the Central Regulatory Area was established by the final 1995 harvest specifications of groundfish (60 FR 8470, February 14, 1995) as 2,702 metric tons (mt). At the same time, the directed fishery for POP in the Central Regulatory Area was closed under § 672.20(c)(2)(ii) in order to reserve amounts anticipated to be needed for incidental catch in other fisheries (60 FR 8470, February 14, 1995). NMFS has determined that as of June 3, 1995, 2,376 mt remain unharvested.

The Director, Alaska Region, NMFS, has determined that the 1995 TAC for POP in the Central Regulatory Area has not been reached. Therefore, NMFS is terminating the previous closure and is opening directed fishing for POP in the Central Regulatory Area.

All other closures remain in full force and effect.

Classification

This action is taken under § 672.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 21, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–15688 Filed 6–26–95; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 672

[Docket No. 950509041–5041–01; I.D. 061995D]

Groundfish of the Gulf of Alaska; Pacific Ocean Perch in the Western Regulatory Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for Pacific ocean perch (POP) in the Western Regulatory Area in the Gulf of Alaska (GOA). This action is necessary to use the total allowable catch (TAC) for POP in this area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), July 3, 1995, until 12 midnight, A.l.t., December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management

Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with § 672.20(c)(1)(ii)(B), the annual TAC for POP in the Western Regulatory Area was established by the final 1995 harvest specifications of groundfish (60 FR 8470, February 14, 1995) as 1,014 metric tons (mt). At the same time, the directed fishery for POP in the Western Regulatory Area was closed under § 672.20(c)(2)(ii) in order to reserve amounts anticipated to be needed for incidental catch in other fisheries (60 FR 8470, February 14, 1995). NMFS has determined that as of June 3, 1995, 995 mt remain unharvested.

The Director, Alaska Region, NMFS, has determined that the 1995 TAC for POP in the Western Regulatory Area has not been reached. Therefore, NMFS is terminating the previous closure and is opening directed fishing for POP in the Western Regulatory Area.

All other closures remain in full force and effect.

Classification

This action is taken under § 672.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 21, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–15689 Filed 6–26–95; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 675

[Docket No. 950206040–5040–01; I.D. 061995E]

Groundfish of the Bering Sea and Aleutian Islands Area; Atka Mackerel in the Central Aleutian District

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for Atka mackerel in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to use the total allowable catch (TAC) for Atka mackerel in this area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), July 1, 1995, until 12 midnight, A.l.t., December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(7)(ii), the TAC for Atka mackerel in the Central Aleutian District was established by the final 1995 harvest specifications of groundfish as 50,000 metric tons (mt), as amended (60 FR 8479, February 14, 1995). The directed fishery for Atka mackerel was closed on April 25, 1995 in order to reserve amounts anticipated to be needed for incidental catch in other fisheries (60 FR 20916, April 28, 1995). NMFS has determined that as of June 3, 1995, 4,055 mt remain unharvested.

The Director, Alaska Region, NMFS, has determined that the 1995 TAC for Atka mackerel in the Central Aleutian District has not been reached. Therefore, NMFS is terminating the previous closure and is opening directed fishing for Atka mackerel in the Central Aleutian District.

All other closures remain in full force and effect.

Classification

This action is taken under § 675.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C 1801 *et seq.*

Dated: June 21, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–15690 Filed 6–26–95; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 60, No. 123
Tuesday, June 27, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R–0883]

Truth in Lending

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Request for comments.

SUMMARY: The Board is soliciting comment on how rules for credit advertising could be modified to increase consumer benefit and decrease creditor costs. Comment is also requested on how current rules could be modified, if at all, for radio and television advertisements without diminishing consumer protection. The Riegle Community Development and Regulatory Improvement Act of 1994 directs the Board to submit a report to the Congress regarding these issues. Under present law, creditors that state a rate in an advertisement must state the annual percentage rate (APR). Stating the APR or other terms triggers additional disclosure requirements such as annual fees imposed on a credit line or the repayment terms for an installment loan.

DATES: Comments must be received on or before August 11, 1995.

ADDRESSES: Comments should refer to Docket No. R–0883, and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551. Comments also may be delivered to Room B–2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street NW. (between Constitution Avenue and C Street) at any time. Comments may be inspected in Room MP–500 of the Martin Building between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding the availability of information.

FOR FURTHER INFORMATION CONTACT: Jane E. Ahrens, Senior Attorney, or Jose M. Gabilondo, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667 or 452–2412; for the hearing impaired *only*, Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

I. Background

Section 336 of the Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103–325, 108 Stat. 2160, enacted into law on September 23, 1994, directs the Board to submit a report to the Congress on existing rules for credit advertising and how current rules could be modified in a way that increases consumer benefit and decreases, specifically for radio advertisements.

II. Current Rules for Credit Advertising

The Truth in Lending Act (15 U.S.C. 1601 et seq.) contains rules about consumer credit advertisements. The act is implemented by the Board's Regulation Z (12 CFR part 226). Regulation Z defines an advertisement as a commercial message in any medium that promotes a credit transaction, directly or indirectly. Examples of advertisements include direct mail literature, messages in newspapers or on computer screens, and telephone solicitations. Direct personal contacts, such as cost estimates for a specific transaction being negotiated, are not advertisements.

Regulation Z covers advertisements for all consumer credit transactions. Creditors advertising specific credit terms must state those actually offered to consumers. Stating certain credit terms triggers the disclosure of additional terms. The specific requirements differ somewhat for closed-end loans (typically, installment loans) and open-end plans (for example, credit card plans or home-secured credit lines).

Special rules govern multi-page advertisements. If a multi-page advertisement contains a term that triggers additional disclosures, the advertisement may clearly state the additional disclosures in a table or schedule on one page, so long as the pages where the triggering term appears refers to the page where the table or schedule is printed. The table or schedule must represent the creditor's more commonly sold higher-price property or services.

Closed-end Credit

If creditors advertise a rate, it must be stated as the APR. A simple annual interest rate also may be stated, but not more conspicuously than the APR.

The following terms in an advertisement trigger additional disclosures: (1) The amount or percentage of a downpayment (in an advertisement for a credit sale), (2) the number of payments or period of repayment, (3) the amount of any payment, and (4) the amount of any finance charge. If an advertisement contains a trigger term, creditors must also state the following: (1) The APR, using that term (and if the rate may increase, that fact), (2) the terms of repayment, and (3) in an advertisement for a credit sale, the amount or percentage of a downpayment. Creditors need not state every loan available—creditors may advertise an example of one or more typical loans, as long as all the terms for the example are listed.

Open-end Credit

General

Disclosures are triggered for open-end plans if creditors advertise any of the terms required to be furnished in account-opening disclosures, such as how the finance charge on an open-end plan may be determined. For example, a creditor advertising ''service charge on balances'' describes how the finance charge will be determined and triggers the following additional disclosure requirements: (1) Any minimum or fixed charge, (2) the periodic rate used to compute the finance charge (expressed as an APR), (3) if the rate may increase, that fact, and (4) any membership fee, such as an annual fee.

Home Equity Lines of Credit

Creditors advertising home-secured credit lines have extra responsibilities. Advertisements cannot refer to home equity plans as ''free money'' (or similar terms) or cannot discuss the tax consequences of interest deductions in a misleading way.

Creditors trigger additional disclosures if they advertise—affirmatively or negatively—account-opening disclosures relating to finance charges and other significant charges or

repayment terms for the plan. If a home equity plan advertisement contains a trigger term, creditors must also state the following: (1) the periodic rate used to compute the finance charge (expressed as an APR), (2) loan fees that are a percentage of the credit limit along with an estimate of other plan fees, and (3) the maximum APR that could be imposed in a variable-rate plan.

If a minimum payment for the home equity line is stated, the advertisement must also state if a balloon payment will result. And if an advertisement for a variable-rate plan states a rate other than one based on the contract's index and margin, the advertisement must also state how long the introductory rate will be in effect. The APR figured on the current index and margin must be disclosed with equal prominence to the introductory rate.

III. Request for Comments

The Board requests comment on how existing credit advertising rules could be modified to increase consumer benefit and decrease creditor costs. Comment is also requested if the current rules could be modified, if at all, for radio advertisements without diminishing consumer protection. For example, Section 336 of the Riegle Community Development and Regulatory Improvement Act of 1994 provides for an abbreviated disclosure scheme for radio leasing advertisements. Before the statutory revisions, if a trigger term (such as a payment amount) were used in a leasing advertisement, as many as six additional disclosures were required to be given. Under the statutory amendments, lessors may substitute a reference to a toll-free telephone number or to a specified print advertisement for the disclosures about purchase options and end of term liability. If consumers call the toll-free number, they must receive all the required disclosures (not simply the ones omitted from the radio advertisement). Alternatively, all of the disclosures could be provided in a publication of general circulation in the community served by the radio station.

Comment is requested on whether the use of toll-free numbers in lieu of providing specific disclosures is warranted. Comment is also requested on whether changes to radio advertisements should be extended to other broadcast media (such as television), given similar time constraints for delivering disclosures.

The Board will submit its report to the Congress in early fall 1995, based on the comments of interested parties and its own analysis.

By order of the Board of Governors of the Federal Reserve System, June 21, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–15681 Filed 6–26–95; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–AWA–3]

Proposed Establishment of Class C Airspace and Revocation of Class D Airspace, Cyril E. King Airport; VI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a Class C airspace area and revoke the existing Class D airspace area at the Cyril E. King Airport, Charlotte Amalie St. Thomas, VI. The Cyril E. King Airport is a public-use facility with a Level II control tower served by Limited Radar Approach Control. The establishment of this Class C airspace area would require pilots to maintain two-way radio communications with air traffic control (ATC) while in Class C airspace. Implementation of the Class C airspace area would promote the efficient control of air traffic and reduce the risk of midair collision in the terminal area.

DATES: Comments must be received on or before August 4, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket [AGC–10], Airspace Docket No. 95–AWA–3, 800 Independence Avenue, SW., Washington, DC 20591.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, P.O. Box 20636, Atlanta, GA 30320.

FOR FURTHER INFORMATION CONTACT: Patricia P. Crawford, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9255.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–AWA–3.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

Background

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and procedural aspects of the ATC system. Among the main objectives of the NAR was the improvement of the ATC system by

increasing efficiency and reducing complexity. In its review of terminal airspace, NAR Task Group 1–2 concluded that Terminal Radar Service Areas (TRSA's) should be replaced. Four types of airspace configurations were considered as replacement candidates, of which Model B, since redesignated Airport Radar Service Area (ARSA), was recommended by a consensus of the task group.

The FAA published NAR Recommendation 1-2.2.1, ''Replace Terminal Radar Service Areas with Model B Airspace and Service'' in Notice 83–9 (July 28, 1983; 48 FR 34286) proposing the establishment of ARSA's at the Robert Mueller Municipal Airport, Austin, TX, and the Port of Columbus International Airport, Columbus, OH. ARSA's were designated at these airports on a temporary basis by SFAR No. 45 (October 28, 1983; 48 FR 50038) to provide an operational confirmation of the ARSA concept for potential application on a national basis.

Following a confirmation period of more than a year, the FAA adopted the NAR recommendation and, on February 27, 1985, issued a final rule (50 FR 9252; March 6, 1985) defining ARSA airspace and establishing air traffic rules for operation within such an area.

Concurrently, by separate rulemaking action, ARSA's were permanently established at the Austin, TX, Columbus, OH, and the Baltimore/Washington International Airports (50 FR 9250; March 6, 1985). The FAA stated that future notices would propose ARSA's for other airports at which TRSA procedures were in effect.

Additionally, the NAR Task Group recommended that the FAA develop quantitative criteria for proposing to establish ARSA's at locations other than those which were included in the TRSA replacement program. The task group recommended that these criteria include, among other things, traffic mix, flow and density, airport configuration, geographical features, collision risk assessment, and ATC capabilities to provide service to users. These criteria have been developed and are being published via the FAA directives system.

The FAA has established ARSA's at 121 locations under a paced implementation plan to replace TRSA's with ARSA's. This is one of a series of notices to implement ARSA's at locations with TRSA's or locations without TRSA's that warrant implementation of an ARSA. Airspace Reclassification, effective September 16, 1993, reclassified ARSA's as Class C airspace areas. This change in terminology is reflected in the remainder of this NPRM.

This notice proposes Class C airspace designation at a location which was not identified as a candidate for Class C in the preamble to Amendment No. 71–10 (50 FR 9252). Other candidate locations will be proposed in future notices published in the **Federal Register**.

The Cyril E. King Airport is a public-use airport with an operating Level II control tower served by Limited Radar Approach Control. Passenger enplanements reported at Cyril E. King Airport were 640,642, 583,817, and 602,373, respectively, for calendar years 1993, 1992, and 1991. This volume of passenger enplanements and aircraft operations meets the FAA criteria for establishing Class C airspace to enhance safety.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a Class C airspace area and revoke the Class D airspace area at the Cyril E. King Airport, Charlotte Amalie, St. Thomas, VI. Cyril E. King Airport is a public airport with a Level II operating control tower served by Limited Radar Approach Control.

The FAA published a final rule (50 FR 9252; March 6, 1985) which defines Class C airspace, and prescribes operating rules for aircraft, ultralight vehicles, and parachute jump operations in Class C airspace areas. The final rule provides, in part, that all aircraft arriving at any airport in Class C airspace or flying through Class C airspace must: (1) prior to entering the Class C airspace, establish two-way radio communications with the ATC facility having jurisdiction over the area; and (2) while in Class C airspace, maintain two-way radio communications with that ATC facility. For aircraft departing from the primary airport within Class C airspace area, or a satellite airport with an operating control tower, two-way radio communications must be established and maintained with the control tower and thereafter as instructed by ATC while operating in Class C airspace. For aircraft departing a satellite airport without an operating control tower and within Class C airspace, two-way radio communications must be established with the ATC facility having jurisdiction over the area as soon as practicable after takeoff and thereafter maintained while operating within the Class C airspace area (14 CFR 91.130).

Pursuant to Federal Aviation Regulations section 91.130 (14 CFR part 91) all aircraft operating within Class C airspace are required to comply with sections 91.129 and 91.130. Ultralight vehicle operations and parachute jumps in Class C airspace areas may only be conducted under the terms of an ATC authorization.

The FAA adopted the NAR Task Group recommendation that each Class C airspace area be of the same airspace configuration insofar as is practicable. The standard Class C airspace area consists of that airspace within 5 nautical miles of the primary airport, extending from the surface to an altitude of 4,000 feet above that airport's elevation, and that airspace between 5 and 10 nautical miles from the primary airport from l,200 feet above the surface to an altitude of 4,000 feet above that airport's elevation. Proposed deviations from this standard have been necessary at some airports because of adjacent regulatory airspace, international boundaries, topography, or unusual operational requirements. The proposed Class C airspace area for the Cyril E. King Airport would consist of that airspace extending upward from the surface to and including 4,000 feet MSL within a 5-mile radius of the airport, and that airspace extending upward from 1,900 feet MSL to and including 4,000 feet MSL within a 10-mile radius of the airport.

Definitions and operating requirements applicable to Class C airspace may be found in section 71.51 of part 71 and sections 91.1 and 91.130 of part 91 of the Federal Aviation Regulations (14 CFR parts 71, 91). The coordinates for this airspace docket are based on North American Datum 83. Class C and Class D airspace designations are published, respectively, in paragraphs 4000 and 5000 of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class C airspace designation listed in this document would be published subsequently in the Order and the Class D airspace designation listed in this document would be removed subsequently from the Order.

Regulatory Evaluation Summary

The FAA has determined that this rulemaking is not a ''significant rulemaking action,'' as defined by Executive Order 12866 (Regulatory Planning and Review). The anticipated costs and benefits associated with this notice are summarized below. (A detailed discussion of costs and benefits is contained in the full evaluation in the docket for this notice.)

Costs

The establishment of the proposed St. Thomas Class C airspace area would impose a one-time FAA administrative cost of $600. For the aviation community (namely, aircraft operators and fixed-based operators), the NPRM would impose little, if any, operating or equipment cost. The potential costs are presented below.

For the proposed Class C airspace area, the FAA does not expect to incur any additional costs for ATC staffing, training, or facility equipment. The FAA is confident that it can handle any additional traffic that would participate in radar services through more efficient use of personnel at the current staffing level.

The FAA holds an informal public meeting at each proposed Class C airspace area location. These meetings provide pilots with the best opportunity to learn both how a Class C airspace area works and how it would affect their local operations. The expenses associated with these public meetings are incurred regardless of whether a Class C airspace area is ultimately established. Thus, they are more appropriately considered routine FAA costs. If the proposed Class C airspace area becomes a final rule, any subsequent public information costs would be strictly attributed to the proposal. For instance, the FAA would distribute a Letter To Airmen to all pilots residing within 50 miles of the Class C airspace area site. The Letter to Airmen would cost approximately $600. This one-time negligible cost would be incurred upon the initial establishment of the proposed Class C airspace area.

The FAA anticipates that some pilots who currently transit the terminal area without establishing radio communications may choose to navigate around the proposed airspace. However, the FAA contends that these operators could navigate around, over, or, in certain cases, under the airspace without significantly deviating from their regular flight paths.

The FAA recognizes that delays might develop at St. Thomas following the initial establishment of the Class C airspace area. However, those delays that do occur are typically transitional in nature. The FAA contends that any potential delays would eventually be more than offset by the increased flexibility afforded controllers in handling traffic as a result of Class C separation standards. This has been the experience at other Class C airspace areas.

Aircraft operating in the vicinity of the proposed airspace already have a requirement for two-way radio communications capability and, therefore, would not be expected to incur any additional costs.

If the proposed Class C airspace area becomes a final rule, operators would be subject to the Mode C Rule. That rule requires all aircraft to be equipped with an operable transponder with Mode C capability when operating in and above a Class C airspace area (up to 10,000 feet mean sea level (MSL)). Some aircraft operators may have to acquire (or upgrade to) a Mode C transponder as a result of the proposed airspace. However, the cost of acquiring a Mode C transponder for all aircraft in the U.S was completely accounted for as a cost of the Mode C Rule.

The FAA has also adopted regulations requiring certain aircraft operators to install Traffic Collision Avoidance System (TCAS), which allows air carriers to determine the position of other aircraft from the signal emitted by Mode C transponders. TCAS issues conflict resolution advisories as to what evasive actions are most appropriate for avoiding potential midair collisions. The TCAS Rule would not contribute to the potential costs of the proposed Class C airspace area, but it would contribute to the potential safety benefits. The benefits of the proposed St. Thomas Class C airspace area are discussed below.

Benefits

The primary benefit of the proposed St. Thomas Class C airspace area would be enhanced aviation safety for the increasing number of passengers carrying aircraft transiting through this airspace. The volume of passenger enplanements at St. Thomas has risen dramatically. Enplanements in 1995 are projected to be 648,000, up from 491,000 in 1990; by the year 2000, enplanements are projected to be 810,000. This high volume of passenger enplanements has made St. Thomas eligible to become a Class C airspace area. The complexity of aircraft operations at St. Thomas has also increased. Complexity refers to air traffic conditions resulting from a mix of controlled or uncontrolled aircraft (pilots that are not in contact with ATC) that vary widely in speed and maneuverability. As this mix increases, so does the potential for midair collisions.

To study the effect that Class C airspace areas has on reducing this risk of midair collisions, the FAA looked at the occurrences of near-midair collisions (NMAC). In a study of NMAC data, the FAA's Office of Aviation Safety found that approximately 15 percent of reported NMAC's occur in airspace similar to that at St. Thomas. This study found that about half of all NMAC's occur in the 1,000- to 5,000-foot altitude range, which is closely comparable to the altitudes where aircraft operate around airports that qualify for Class C airspace areas. This study also found that over 85 percent of NMAC's occur in visual flight rules (VFR) conditions when visibility is 5 miles or greater. Finally, the study found that the largest number of NMAC reports are associated with instrument flight rules (IFR) operators under radar control conflicting with VFR traffic during VFR flight conditions below 12,500 feet. The mandatory participation requirements of the Class C airspace area and the radar services provided by ATC to VFR as well as IFR pilots would help alleviate such conflicts.

Ordinarily, the benefit of a reduction in the risk of midair collisions from establishing a Class C airspace area would be attributed entirely to establishing the proposed Class C airspace area. However, an indeterminate amount of the benefits has to be credited to the interaction of the proposed Class C airspace area (and the Class C airspace area program in general) with the Mode C Rule, which in turn, interacts with the TCAS Rule. The proposed Class C airspace area, as well as other designated airspace actions that require Mode C transponders, cannot be separated from the benefits of the Mode C and TCAS Rules. These four actions would share potential benefits totaling $4.4 billion.

Comparison of Costs and Benefits

The proposed rule to establish a Class C airspace area at St. Thomas, VI, would impose a negligible cost of $600 on the agency. When this cost estimate of $600 is added to the total cost of establishing the other Mode-C-dependent airspace classes and the Mode C Rule and TCAS Rule, the costs would still be less than their total potential safety benefits. The proposal would also generate some benefits in the form of enhanced operational efficiency while imposing little, if any, additional operating costs on pilots who choose to remain clear of the proposed airspace. Thus, the FAA believes that the proposed rule would be cost-beneficial.

International Trade Impact Assessment

The proposal would only affect U.S. terminal airspace operating procedures at and in the vicinity of St. Thomas, VI. The proposal would not impose a competitive trade disadvantage on foreign firms in the sale of either foreign

aviation products or services in the United States. In addition, domestic firms would not incur a competitive trade disadvantage in either the sale of United States aviation products or services in foreign countries.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. Small entities are independently owned and operated small businesses and small not-for-profit organizations. The RFA requires agencies to review rules that may have ''a significant economic impact on a substantial number of small entities.''

Under FAA Order 2100.14A entitled *Regulatory Flexibility Criteria and Guidance*, a significant economic impact means annualized net compliance cost to an entity, which when adjusted for inflation, is greater than or equal to the threshold cost level for that entity. A substantial number of small entities means a number that is eleven or more and is more than one-third the number of the small entities subject to a proposed or existing rule.

For the purpose of this evaluation, the small entities that would be potentially affected by the proposed rule are fixed-base operators, flight schools, banner towing, seaplane shuttle bases, and other small aviation businesses located at and around St. Thomas. By using cutouts, special procedures, and Letters of Agreement between ATC and the affected parties, the FAA would make an effort to eliminate any adverse affect practicable on the operations of small entities in the vicinity of St. Thomas. The FAA has utilized such arrangements extensively in implementing other Class C airspace areas in the past. In addition, any delay problems that may initially develop following implementation would be transitory. This has been the experience at other Class C airspace areas. Thus, the proposed rule would not result in a significant economic impact on a substantial number of small entities.

Federalism Implications

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposed rule would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed under ''Regulatory Evaluation,'' the FAA has determined that this rule (1) is not a ''significant regulatory action'' under Executive Order 12866; and (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is also certified that this rule does not require preparation of a Regulatory Flexibility Analysis under the RFA.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 4000 Subpart C—Class C Airspace

* * * * *

ASO VI C Charlotte Amalie St. Thomas, VI [New]

Cyril E. King Airport
(lat. 18°20′19″ N., long. 64°58′11″ W.)

That airspace extending upward from the surface to and including 4,000 feet MSL within 5-mile radius of the Cyril E. King Airport; and that airspace extending upward from 1,900 feet to 4,000 feet MSL within a 10-mile radius of the airport from the 075° bearing from the airport clockwise to the 020° bearing from the airport. This Class C airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 5000 Subpart D—Class D Airspace

* * * * *

ASO VI D Charlotte Amalie Cyril E. King Airport, St. Thomas, VI [Removed]

* * * * *

Issued in Washington, DC, on June 12, 1995.

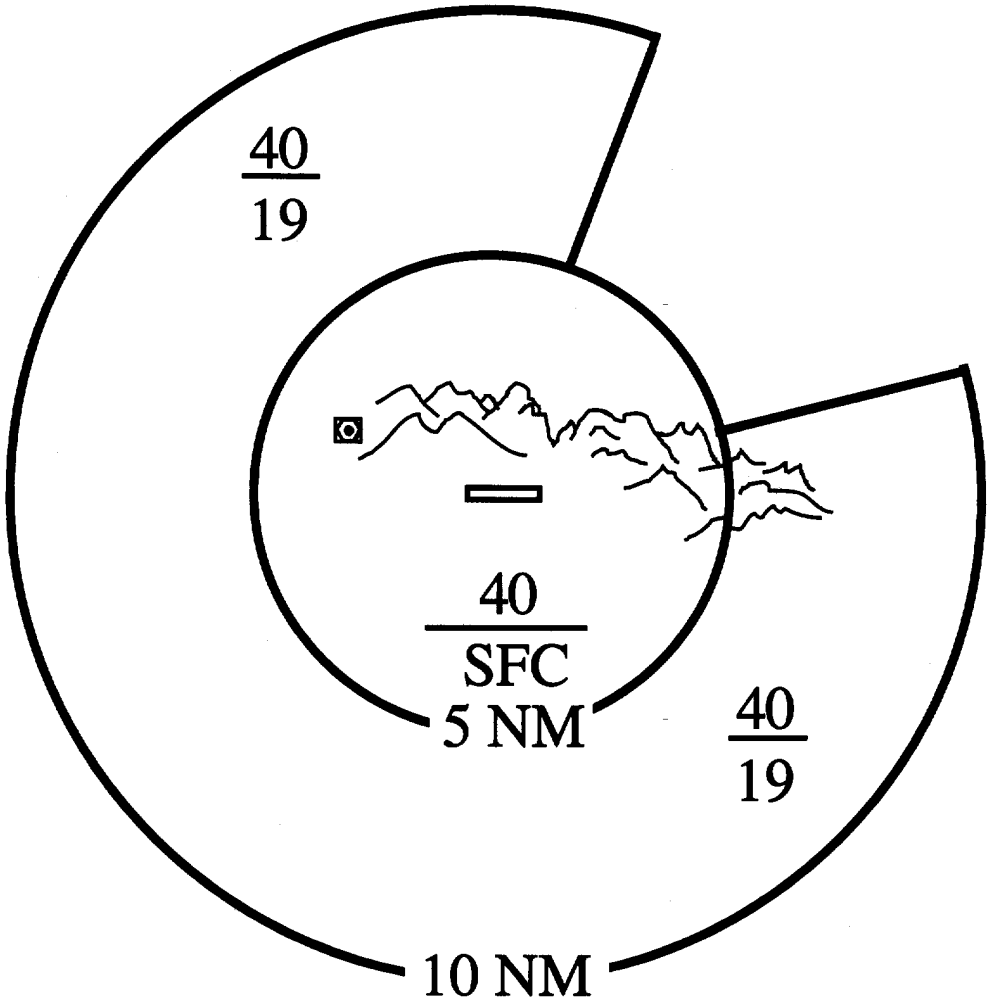
Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

BILLING CODE 4910–13–P

ST. THOMAS
CLASS C AIRSPACE AREA

(Not to be used for navigation)



Prepared by the
FEDERAL AVIATION ADMINISTRATION
Publications Branch
ATP-210

[FR Doc. 95–15719 Filed 6–26–95; 8:45 am]
BILLING CODE 4910–13–BC

14 CFR Part 71

[Airspace Docket No. 95–ASO–11]

Proposed Establishment of Class D and Class E2 Airspace; Lawrenceville, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class D airspace at Lawrenceville, GA. A non-federal control tower is being commissioned at the Lawrenceville/Gwinnett County-Briscoe Field Airport. Class D airspace is required when the control tower is open to accommodate current Standard Instrument Approach Procedures (SIAPs) and for instrument flight rules (IFR) operations at the airport. This action would also establish Class E2 airspace when the tower is closed and approach control service is provided by Atlanta Tower.

DATES: Comments must be received on or before August 7, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 95–ASO–11, Manager, System Management Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Stanley Zylowski, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION: .

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–ASO–11.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Council for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, System Management Branch, ASO–530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class D and Class E2 airspace at Lawrenceville, GA. A non-federal control tower is being commissioned at the Lawrenceville/Gwinnett County-Briscoe Field Airport. Class D airspace is required when the control tower is open to accommodate current SIAPs and IFR operations at the airport. This action would also establish Class E2 airspace when the tower is closed and approach control service is provided by Atlanta Tower. Class D airspace designations and Class E airspace areas designated as a surface area for an airport are published in Paragraphs 5000 and 6002 respectively of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11044; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120; E.O. 10854, FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.7 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 5000 Class D Airspace

* * * * *

ASO GA D Lawrenceville, GA [New]

Lawrenceville/Gwinnett County-Briscoe Field Airport, GA
(lat. 33°58′41″ N, long. 83°57′45″ W)

That airspace extending upward from the surface to and including 3600 feet MSL within a 4.6-mile radius of the Lawrenceville/Gwinnett County-Briscoe Field Airport. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E Airspace Areas Designated as a Surface Area for an Airport.

* * * * *

ASO GA E2 Lawrenceville, GA [New]

Lawrenceville/Gwinnett County-Briscoe Field Airport, GA
(lat. 33°58′41″ N, long. 83°57′45″ W)

Within a 4.6-mile radius of the Lawrenceville/Gwinnett County-Briscoe Field Airport. This Class E airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on June 14, 1995.

Stanley Zylowski,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 95–15720 Filed 6–26–95; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 93–ASW–5]

Proposed Alteration of VOR Federal Airways; Texas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would alter eleven Federal airways located in the vicinity of Dallas, TX. This proposal, which supports the Dallas/Fort Worth Metroplex Plan, is necessary due to the decommissioning of four Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) facilities and the commissioning of four new VORTAC's in the near future. In addition, this action would enhance the flow of air traffic, simplify routings, increase safety and reduce pilot/controller workload.

DATES: Comments must be received on or before August 4, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASW–500, Docket No. 93–ASW–5, Federal Aviation Administration, 2601 Meacham Blvd, Fort Worth, TX 76193–0500.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Bil Nelson, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–9295.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 93–ASW–5.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter eleven Federal airways located in the vicinity of Dallas, TX. The proposed alterations to the airways surrounding the Dallas/Fort Worth (DFW) International Airport, which are essential to support the Dallas/Fort Worth Metroplex Plan, are necessary because of the future decommissioning of the existing Bridgeport, Blue Ridge, Scurry and Action VORTAC's and the commissioning of the Bowie, Bonham, Cedar Creek and Glen Rose VORTAC's. This proposed action would enhance the flow of the air traffic, simplify routings, increase safety, and reduce pilot/controller workload. Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The airways listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389, 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points,

dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways

* * * * *

V–163 [Revised]

From Matamoros, Mexico; via Brownsville, TX; 27 miles standard width, 37 miles 7 miles wide (3 miles E and 4 miles W of centerline); Corpus Christi, TX; Three Rivers, TX; INT Three Rivers 345° and San Antonio, TX, 168° radials; San Antonio; Lampasas, TX; Glen Rose, TX; Millsap, TX; Bowie, TX; Ardmore, OK; to Will Rogers, OK. The airspace within Mexico is excluded.

* * * * *

V–194 [Revised]

From Cedar Creek, TX; College Station, TX; INT College Station 151° and Hobby, TX, 290° radials; Hobby; Sabine Pass, TX; Lafayette, LA; Baton Rouge, LA; McComb, MS; INT McComb 055° and Meridian, MS; 221° radials; Meridian. From Liberty, NC, via Raleigh-Durham, NC; Tar River, NC, Cofield, NC, to INT Cofield 077° and Norfolk, VA, 209° radials.

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V–278 [Revised]

From Texico, NM, via Plainview, TX; Guthrie, TX; Bowie, TX; Bonham, TX; Paris, TX; Texarkana, AR; Monticello, AR; Greenville, MS; Sidon, MS; Bigbee, MS; to Vulcan, AL.

* * * * *

V–355 [Revised]

From Bowie, TX; to Wichita Falls, TX.

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V–358 [Revised]

From San Antonio, TX, via Stonewall, TX; Lampasas, TX; INT Lampasas 041° and Waco, TX, 249° radials; Waco; Glen Rose, TX; Millsap, TX; Bowie, TX; Ardmore, OK; INT Ardmore 327° and Will Rogers, OK, 195° radials; to Will Rogers.

* * * * *

V–369 [Revised]

From Dallas-Fort Worth, TX; to Navasota, TX.

* * * * *

V–477 [Revised]

From Leona, TX; to Cedar Creek, TX.

* * * * *

V–568 [Revised]

From Corpus Christi, TX, via INT Corpus Christi 296° and Three Rivers, TX, 165° radials; Three Rivers; INT Three Rivers 327° and San Antonio, TX, 183° radials; San Antonio; Stonewall, TX; Llano, TX; INT Llano 026°T(018°M) and Glen Rose, TX, 216°T(210°M) radials; Glen Rose; Millsap, TX; to Whichita Falls, TX.

V–569 [Revised]

From Beaumont, TX, via INT Beaumont 338° and Lufkin, TX, 146° radials; Lufkin; Frankston, TX; to Cedar Creek, TX.

* * * * *

V–571 [Revised]

From Humble, TX, via Navasota, TX; Leona, TX; INT Leona 331°T(323°M) and Cedar Creek, TX, 186°T(180°M) radials; to Cedar Creek.

* * * * *

V–583 [Revised]

From Austin, TX; INT Austin 062° and College Station, TX, 270° radials; College Station; Leona, TX; Frankston, TX; Quitman, TX; Paris, TX; to McAlester, OK.

* * * * *

Issued in Washington, DC, on June 14, 1995.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 95–15724 Filed 6–26–95; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 71

[Airspace Docket No. 93–ASW–4]

Proposed Alteration of VOR Federal Airways; Texas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would alter twelve Federal airways located in the vicinity of Dallas, TX. This proposal, which supports the Dallas/Fort Worth Metroplex Plan, is necessary due to the decommissioning of four Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) facilities and the commissioning of four new VORTAC's in the near future. In addition, this action would enhance the flow of air traffic, simplify routings, increase safety and reduce pilot/controller workload.

DATES: Comments must be received on or before August 4, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASW–500, Docket No. 93–ASW–4, Federal Aviation Administration, 2601 Meacham Blvd, Fort Worth, TX 76193–0500.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Bill Nelson, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9295.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 93–ASW–4.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter twelve Federal airways located in the vicinity of Dallas, TX. The proposed alterations to the airways surrounding the Dallas/Fort Worth (DFW) International Airport, which are essential to support the Dallas/Fort Worth Metroplex Plan, are necessary because of the future decommissioning of the existing Bridgeport, Blue Ridge, Scurry and Action VORTAC's and the commissioning of the Bowie, Bonham, Cedar Creek and Glen Rose VORTAC's. This proposed action would enhance the flow of the air traffic, simplify routings, increase safety, and reduce pilot/controller workload. Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The airways listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389, 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways

* * * * *

V–15 [Revised]

From Hobby, TX, via Navasota, TX; College Station, TX; Waco, TX; Cedar Creek, TX; Bonham, TX; Ardmore, OK; Okmulgee, OK, to Neosho, MO. From Sioux City, IA; INT Sioux City 340° and Sioux Falls, SD, 169° radials; Sioux Falls; Huron, SD; Aberdeen, SD; Bismarck, ND; to Minot, ND.

V–16 [Revised]

From Los Angeles, CA; Paradise, CA; Palm Springs, CA; Blythe, CA; Buckeye, AZ; Phoenix, AZ; INT Phoenix 155° and Stanfield, AZ, 105° radials; Tucson, AZ; Cochise, AZ; Columbus, NM; El Paso, TX; Salt Flat, TX; Wink, TX; Wink 066° and Big Spring, TX, 260° radials; Big Spring; Abilene, TX; Millsap, TX; Glen Rose, TX; Cedar Creek, TX; Quitman, TX; Texarkana, AR; Pine Bluff, AR; Holly Springs, MS; Jacks Creek, TN; Shelbyville, TN; Hinch Mountain, TN; Volunteer, TN; Holston Mountain, TN; Pulaski, VA; Roanoke, VA; Lynchburg, VA; Flat Rock, VA; Richmond, VA; INT Richmond 039° and Patuxent, MD, 228° radials; Patuxent; Smyrna, DE; Cedar Lake, NJ; Coyle, NJ; INT Coyle 036° and Kennedy, NY, 209° radials; Kennedy; Deer Park, NY; Calverton, NY; Norwich, CT; Boston, MA. The airspace within Mexico and the airspace below 2,000 feet MSL outside the United States is excluded. The airspace within Restricted Areas R–5002A, R–5002C, and R–5002D is excluded during their times of use. The airspace within Restricted Areas R–4005 and R–4006 is excluded.

V–17 [Revised]

From Brownsville, TX, via Harlingen, TX; McAllen, TX; 29 miles 12 AGL, 34 miles 25 MSL, 37 miles 12 AGL; Laredo, TX; Cotulla, TX; INT Cotulla 046° and San Antonio, TX, 198° radials; San Antonio; INT San Antonio 042° and Austin, TX, 229° radials; Austin; Waco, TX; Glen Rose, TX; Milsap, TX; Bowie, TX Duncan, OK; Will Rogers, OK; Gage, OK; Garden City, KS; to Goodland, KS.

V–18 [Revised]

From Guthrie, TX, via INT Guthrie 156° and Millsap, TX, 274° radials; Millsap; Glen Rose, TX; Cedar Creek, TX; Quitman, TX; Belcher, LA; Monroe, LA; Jackson, MS; Meridian, MS; Tuscaloosa, AL; Vulcan, AL; Talladega, AL; Atlanta, GA; Colliers, SC; Charleston, SC.

* * * * *

V–54 [Revised]

From Waco, TX; Cedar Creek, TX; Quitman, TX; Texarkana, AR; INT Texarkana 052° and Little Rock, AR, 235° radials; Little Rock; Holly Springs, MS; Muscle Shoals, AL; Rocket, AL; Choo Choo, GA; Harris, GA; Spartanburg, SC; Charlotte, NC; Sandhills, NC; INT Sandhills 146° and Fayetteville, NC, 267° radials; Fayetteville; to Kinston, NC.

* * * * *

V–62 [Revised]

From Gallup, NM; INT Gallup 089° and Santa Fe, NM, 268° radials; Santa Fe; Anton Chico, NM; Texico, NM; Lubbock, TX; Abilene, TX; INT Abilene 109°T(099°M) and Glen Rose, TX, 273°T(267°M) radials; Glen Rose.

V–63 [Revised]

From Bonham, TX, via McAlester, OK; Razorback, AR; Springfield, MO; Hallsville, MO; Quincy, IL; Burlington, IA; Moline, IL; Davenport, IA; Rockford, IL; Janesville, WI; Badger, WI; Oshkosh, WI; Stevens Point, WI; Wausau, WI; Rhinelander, WI, to Houghton, MI. The airspace at and above 10,000 feet MSL from Quincy to 32 miles north, is excluded during the time that the Allen MOA is activated by NOTAM.

* * * * *

V–66 [Revised]

From Mission Bay, CA, Imperial, CA; 13 miles, 24 miles, 25 MSL, Bard, AZ; 12 miles 35 MSL INT Bard 089° and Gila Bend, AZ, 261° radials; 46 miles, 35 MSL, Gila Bend; Tucson, AZ, 7 miles wide (3 miles south and 4 miles north of centerline); Douglas, AZ; INT Douglas 064° and Columbus, NM, 277° radials; Columbus; El Paso, TX; 6 miles wide, INT El Paso 109° and Hudspeth 287° radials; 6 miles wide, Hudspeth; Pecos, TX; Midland, TX; INT Midland 083° and Abilene, TX, 252° radials; Abilene; Bowie, TX; Bonham, TX; Sulphur Springs, TX; Texarkana, AR. From Tuscaloosa, AL, Brookwood, AL; LaGrange, GA; INT LaGrange 120° and Columbus, GA, 068° radials; INT Columbus 068° and Athens, GA, 195° radials; Athens; Greenwood, SC; Sandhills, NC; Raleigh-Durham, NC; Franklin, VA, excluding the airspace above 13,000 feet MSL from the INT of Tucson, AZ, 122° and Cochise, AZ, 257° radials to the INT of Douglas, AZ, 064° and Columbus, NM, 277° radials.

* * * * *

V–94 [Revised]

From Blythe, CA, INT Blythe 094° and Gila Bend, AZ, 299° radials; Gila Bend; Stanfield, AZ; 55 miles, 74 miles, 95 MSL, San Simon, AZ; Deming, NM; Newman, TX; Salt Flat, TX; Wink, TX; Midland, TX; Tuscola, TX; Glen Rose, TX; Cedar Creek, TX: Gregg County, TX; Elm Grove, LA; Monroe, LA; Greenville, MS; Holly Springs, MS; Jacks Creek, TN; Bowling Green, KY. The airspace within R–5103A is excluded.

* * * * *

V–114 [Revised]

From Amarillo, TX, via Childress, TX; Wichita Falls, TX; Bonham, TX; Quitman, TX; Gregg County, TX; Alexandria, LA; INT Baton Rouge, LA, 307° and Lafayette, LA, 042° radials; 7 miles wide (3 miles north and 4 miles south of centerline); Baton Rouge; New Orleans, LA; INT New Orleans 070° and Gulfport, MS, 247° radials; Gulfport; INT

Gulfport 344° and Eaton, MS, 171° radials; to Eaton, excluding the portion within R–3801B and R–3801C.

* * * * *

V–124 [Revised]

From Bonham, TX, via Paris, TX; Hot Springs, AR; Little Rock, AR; Gilmore, AR; Jacks Creek, TN; to Graham, TN.

* * * * *

V–161 [Revised]

From Three Rivers, TX, via Center Point, TX; Llano, TX; INT Llano 026° and Millsap, TX, 193° radials; Millsap; Bowie, TX; Ardmore, OK; Okmulgee, OK; Tulsa, OK; Oswego, KS; Butler, MO; Napoleon, MO; Lamoni, IA; Des Moines, IA; Mason City, IA; Rochester, MN; Farmington, MN; Gopher, MN; Brainerd, MN; Grand Rapids, MN; International Falls, MN; to Winnipeg, MB, Canada, excluding the portion within Canada.

* * * * *

Issued in Washington, DC, on June 14, 1995.

Harold W. Becker

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 95–15723 Filed 6–26–95; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 71

[Airspace Docket No. 94–ASW–22]

Proposed Amendment to Class E Airspace; Guymon, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class E airspace extending upward from 700 feet above ground level (AGL) at Guymon, OK. A new Global Position Satellite (GPS) standard instrument approach procedure (SIAP) to Runway (RWY) 36 at Guymon Municipal Airport has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the GPS SIAP to RWY 36.

DATES: Comments must be received on or before September 14, 1995.

ADDRESSES: Send comments on the proposal in triplicate to Manager, System Management Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 94–ASW–22, Fort Worth, TX 76193–0530. The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX, between 9:00 am and 3:00 pm, Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the System Management Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, System Management Branch, Federal Aviation Administration, Southwest Region, Fort Worth, TX 76193–0530; telephone: (817) 222–5593.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed under the caption **ADDRESSES**. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed, stamped, postcard containing the following statement: ''Comments to Airspace Docket No. 94–ASW–22.'' The postcard will be dated and time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the System Management Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Forth Worth, TX 76193–0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A that describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to revised the Class E airspace, controlled airspace extending upward form 700 feet AGL, at Guymon Municipal Airport, Guymon, OK. A new GPS SIAP to RWY 36 has made necessary this proposal to amend the controlled airspace. The intended effect of this proposal is to provide adequate Class E airspace for aircraft executing the SIAP.

The coordinates for this airspace docket are based on North American Datum 83. Designated Class E airspace areas extending upward from 700 feet or more above ground level are published in Paragraph 6005 of FAA Order 7400.9B, dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963

Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9B, *Airspace Designations and Reporting Points*, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASW OK E5 Guymon, OK [Revised]

Guymon Municipal Airport, OK
(Lat. 36°41′03″ N, long. 101°30′26″ W)
Guymon NDB
(Lat. 36°42′19″ N, long. 101°30′18″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Guymon Municipal Airport and within 2.4 miles each side of the 006° bearing from the Guymon NDB extending from the 6.6-mile radius to 7.4 miles north of the airport.

* * * * *

Issued in Forth Worth, TX on June 7, 1995.

Helen Fabian Parke,

Manager, Air Traffic Division Southwest Region.

[FR Doc. 95–15721 Filed 6–26–95; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 95–ASW–01]

Proposed Establishment of Class E Airspace; Seymour, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace extending upward from 700 feet above ground level (AGL) at Seymour Municipal Airport, Seymour, TX. The development of a Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway (RWY) 17 has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace to contain Instrument Flight Rules (IFR) operations at Seymour Municipal Airport, Seymour, TX.

DATES: Comments must be received on or before September 14, 1995.

ADDRESSES: Send comments on the proposal in triplicate to Manager, System Management Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 95–ASW–01, Fort Worth, TX 76193–0530.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX, between 9:00 am and 3:00 pm, Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the System Management Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT:

Donald J. Day, System Management Branch, Air Traffic Division, Federal Aviation Administration, Fort Worth, TX 76193–0530; telephone: (817) 222–5593.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed under the caption **ADDRESSES**. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed, stamped, postcard containing the following statement: ''Comments to Airspace Docket No. 95–ASW–01.'' The postcard will be date and time stamped and returned to the commenter. All communications received, on or before the specified closing date, for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, Department of Transportation, Fort Worth, TX 76193–0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A that describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace, controlled airspace extending upward from 700 feet AGL at Seymour Municipal Airport, Seymour, TX. The development of a GPS RWY 17 SIAP has made this proposal necessary. Designated airspace extending upward from 700 feet above the ground (AGL) is Class E airspace. The intended effect of this proposal is to provide adequate Class E airspace for inbound aircraft executing the GPS RWY 17 SIAP as well as to provide adequate Class E airspace for departing IFR aircraft at Seymour Municipal Airport, Seymour, TX.

The coordinates for this airspace docket are based on North American Datum 83. Designated Class E airspace areas extending upward from 700 feet or more above ground level are published in Paragraph 6005 of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9B, *Airspace Designations and Reporting Points,* dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth

* * * * *

ASW TX E5 Seymour, TX [New]

Seymour, Seymour Municipal Airport, TX
(Lat. 33°38′55″ N., long. 99°15′41″ W.)

* * * * *

Issued in Fort Worth, TX on June 7, 1995.

Helen Fabian Parke,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 95–15722 Filed 6–26–95; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 91

[Docket No. 28213; Notice No. 95–6]

RIN 2120–AE82

Stage 2 Airplane Operations

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This document contains a correction to a notice of proposed rulemaking (NPRM), Stage 2 Airplane Operations, published in the **Federal Register** on May 11, 1995 (60 FR 25554). That document contained an incorrect notice number.

FOR FURTHER INFORMATION CONTACT: Mr. Alan V. Trickey, Policy and Regulatory Division (AEE–300), Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3496.

SUPPLEMENTARY INFORMATION: On May 11, 1995, the Federal Aviation Administration published a notice of proposed rulemaking, Docket No. 28213 (60 FR 25554), which proposed revisions to airplane operating rules to provide reporting requirements for operators of Stage 2 airplanes in Hawaii. The notice number in the heading of the document was incorrect.

Correction to NPRM

The NPRM published as **Federal Register** document number 95–11273 on May 11, 1995 (60 FR 25554), is corrected by changing the notice number in the heading on page 25554, from ''Notice No. 95–6'' to ''Notice No. 95–8''.

Issued in Washington, DC on June 16, 1995.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

[FR Doc. 95–15718 Filed 6–26–95; 8:45 am]

BILLING CODE 4910–13–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1274

RIN 2700–AC07

Cooperative Agreements with Commercial Firms

AGENCY: Office of Procurement, Contract Management Division, National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: Current NASA regulations at 14 CFR part 1260 describe the use of cooperative agreements with educational institutions and non-profit organizations. The proposed regulation will establish the requirements for cooperative agreements with commercial firms.

DATES: Comments are due on or before August 28, 1995.

ADDRESSES: Headquarters, NASA, Washington, DC 20546, ATTN: CODE HK/MR. T. Deback. Comments on the paperwork burden should also be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer for NASA, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. T. Deback, (202) 358–0431.

SUPPLEMENTARY INFORMATION:

Background

As a result of the National Performance Review, participation in ARPA's Technology Reinvestment Program, the High Performance Computing Initiative, and a strong sense within NASA that cooperative agreements with industry are an appropriate way to carry out certain assistance type activities, use of cooperative agreements is being increased. As part of this increase, cooperative agreements with industry are being utilized for the first time.

Regulatory Flexibility Act

NASA certifies that this regulation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted to the Office of Management and Budget for review under 44 U.S.C. 3504(h). NASA requires certain reporting and recordkeeping of commercial firms in order to determine eligibility for selection and compliance with the provisions of the cooperative agreements. The estimated total annual reporting and recordkeeping burden is 6680 hours. The estimated average burden hours per response is 6 hours. The rule proposes annual reporting for patents, property, and technical results. Other reports are required at the conclusion of the agreement or the occurrence of other events. The estimated number of likely respondents is 175 firms submitting proposals per year resulting in the award of 50 cooperative agreements per year.

List of Subjects in 14 CFR Part 1274

Grant programs, Business and industry.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, 14 CFR part 1274 is proposed to be added as follows.

PART 1274—COOPERATIVE AGREEMENTS WITH COMMERCIAL FIRMS

Subpart A—General

Subpart B—Pre-Award Requirements

Authority: 31 U.S.C. 6301 to 6308; 42 U.S.C. 2451, et seq.

Subpart A—General

§ 1274.101 Purpose.

This regulation establishes uniform administrative requirements for NASA cooperative agreements awarded to commercial firms. Cooperative agreements are ordinarily entered into with commercial firms to—

(1) Support research and development,

(2) Provide technology transfer from the Government to the recipient, or

(3) Develop a capability among U.S. firms to potentially enhance U.S. competitiveness.

(b) Award to foreign firms is not precluded; however, an award may not be made to a foreign government.

§ 1274.102 Definitions.

Administrator. The Administrator or Deputy Administrator of NASA.

Associate Administrator for Procurement. The head of the Office of Procurement, NASA Headquarters (Code H).

Cash contributions. The recipient's cash outlay, including the outlay of money contributed to the recipient by third parties.

Closeout. The process by which a NASA determines that all applicable administrative actions and all required work of the award have been completed by the recipient and NASA.

Cooperative agreement. As defined by 31 U.S.C. 6305, cooperative agreements are financial assistance instruments used to stimulate or support activities for authorized purposes and in which the Government participates substantially in the performance of the effort. This regulation covers only cooperative agreements with commercial firms. Cooperative agreements with universities and non-profit organizations are covered by 14 CFR part 1260.

Cost sharing or matching. That portion of project or program costs not borne by the Federal Government except that the recipient's contribution may be reimbursable under other Government awards as allowable IR&D costs pursuant to 48 CFR (NFS) 1831.205–18 (59 FR 22521, May 2, 1994).

Date of completion. The date on which all work under an award is completed or the date on the award document, or any supplement or amendment thereto, on which NASA sponsorship ends.

Days. Calendar days, unless otherwise indicated.

Government furnished equipment. Equipment in the possession of, or acquired directly by, the Government and subsequently delivered, or otherwise made available, to a Recipient.

Grant Officer. A Government employee who has been delegated the authority to negotiate, award, or administer grants or cooperative agreements.

Incremental funding. A method of funding a cooperative agreement where the funds initially allotted to the cooperative agreement are less than the award amount. Additional funding is added as described in § 1274.918.

Recipient. An organization receiving financial assistance under a cooperative agreement to carry out a project or program. A recipient may be an individual firm, a consortium, a partnership, etc.

Resource contribution. The total value of resources provided by either party to the cooperative agreement including both cash and in-kind contributions.

Revocation. The cancellation of NASA sponsorship, in whole or in part, under an agreement at any time prior to the date of completion.

Support contractor means a NASA contractor performing part or all of the NASA responsibilities under a cooperative agreement.

Suspension. An action by NASA that temporarily withdraws sponsorship under an award, pending corrective action by the recipient or pending a decision to revoke the award by NASA. Suspension of an award is a separate action from suspension under Federal agency regulations implementing E.O.'s 12549 and 12689, ''Debarment and Suspension.''

Technical officer. The official of the cognizant NASA office who is responsible for monitoring the technical aspects of the work under a cooperative agreement.

§ 1274.103 Effect on other issuances.

For awards subject to this regulation, all administrative requirements of codified program regulations, program manuals, handbooks and other nonregulatory materials which are

inconsistent with the requirements of this Regulation shall be superseded, except to the extent they are required by statute, or authorized in accordance with the deviations provision in § 1274.104.

§ 1274.104 Deviations.

(a) The Associate Administrator for Procurement may grant exceptions for classes of or individual cooperative agreements from the requirements of this Regulation when exceptions are not prohibited by statute.

(b) *Applicability.* A deviation is required for any of the following:

(1) When a prescribed provision set forth in this regulation for use verbatim is modified or omitted.

(2) When a provision is set forth in this regulation, but not prescribed for use verbatim, and the installation substitutes a provision which is inconsistent with the intent, principle, and substance of the prescribed provision.

(3) When a NASA form or other form is prescribed by this regulation, and that form is altered or another form is used in its place.

(4) When limitations, imposed by this regulation upon the use of a provision, form, procedure, or any other action, are not adhered to.

(c) *Request for deviations.* Requests for authority to deviate from this regulation will be forwarded to Headquarters, Program Operations Division (Code HS). Such requests, signed by the Procurement Officer, shall contain as a minimum:

(1) A full description of the deviation and identification of the regulatory requirement from which a deviation is sought.

(2) Detailed rationale for the request, including any pertinent background information.

(3) The name of the recipient and identification of the cooperative agreement affected, including the dollar value.

(4) A statement as to whether the deviation has been requested previously, and, if so, circumstances of the previous request(s).

(5) A description of the intended effect of the deviation.

(6) A copy of legal counsel's concurrence or comments.

§ 1274.105 Approval of Cooperative Agreement Notices (CANs) and cooperative agreements.

(a) As soon as possible after the initial decision is made by program or procurement personnel to use the CAN process, the cognizant program office or procurement office, shall notify the Associate Administrator for Procurement (Code HS), of the intent to use a CAN in all cases where the total Government funds to be awarded in response to CAN proposals is expected to equal or exceed $10 million. All such notifications, as described below, shall be concurred in by the Procurement Officer. This requirement also applies in those cases where an unsolicited proposal is received and a decision is made to award a cooperative agreement in which the recipient (or one or more of a ''team'' of recipients) is a commercial firm and the total Government funds are expected to equal or exceed $10 million.

(b) The required notification is to be accomplished by sending an electronic mail (e-mail) message to the following address at NASA Headquarters: can@mercury.hq.nasa.gov. The notification must include the following information, as a minimum:

(1) Identification of the cognizant center and program office,

(2) Description of the proposed program for which proposals are to be solicited,

(3) Rationale for decision to use a CAN rather than other types of solicitations,

(4) The amount of Government funding to be available for awards,

(5) Estimate of the number of cooperative agreements to be awarded as a result of the CAN,

(6) The percentage of cost-sharing to be required, and

(7) Tentative schedule for release of CAN and award of cooperative agreements

(c) Code HS will respond by e-mail message to the sender, with a copy of the message to the Procurement Officer, within 5 working days of receipt of this initial notification. The response will address the following:

(1) Whether Code HS agrees or disagrees with the appropriateness for using a CAN for the effort described,

(2) Whether Code HS will require review and approval of the CAN before its issuance,

(3) Whether Code HS will require review and approval of the selected offeror's cost sharing arrangement (e.g., cost sharing percentage; type of contribution (cash, labor, intellectual property, etc.)), and

(4) Whether Code HS will require review and approval of the resulting cooperative agreement(s).

(d) If a response from Code HS is not received within 5 working days of notification, the program office or center may proceed with release of the CAN and award of the cooperative agreements as described.

Subpart B—Pre-Award Requirements

§ 1274.201 Purpose.

Sections 1274.202 through 1274.207 prescribe forms and instructions and addresses other pre-award matters.

§ 1274.202 Solicitations and proposals.

(a) Consistent with 31 U.S.C. 6301(3), NASA uses competitive procedures to award cooperative agreements whenever possible. An award will normally be made as a result of a Cooperative Agreement Notice (CAN) which envisions a cooperative agreement as the award instrument. A Commerce Business Daily synopsis will be used to publicize the CAN.

(b) *Unsolicited proposals.*

(1) An award may be made as a result of an unsolicited proposal. The unsolicited proposal must evidence a unique and innovative idea or approach which is not the subject of a current or anticipated solicitation. When a cooperative agreement is awarded as a result of an unsolicited proposal, a Commerce Business Daily synopsis must be published to provide an opportunity for other firms/consortia to express an interest in the agreement unless the exception in 48 CFR (FAR) 5.202(a)(8) applies. Respondents should be given a minimum of thirty days to respond. If interest is expressed, a decision must be made to proceed with the award or to issue a solicitation for competitive proposals.

(2) Prior to an award made as the result of an unsolicited proposal, the award must be approved by the Procurement Officer if NASA's total resource contribution is below $5 million. Center Director approval is required if NASA's total resource contribution is $5 million or more. For Headquarters cooperative agreements, approval by the Associate Administrator for Procurement is required if NASA's total resource contribution is $5 million or more.

(c) *Cost and payment matters*

(1) The allowability of costs incurred by the recipient is determined in accordance with 48 CFR (FAR) Part 31, ''Contract Cost Principles and Procedures.''

(2) Cost sharing. A substantial resource contribution on the part of the Recipient is required. The Recipient is expected to contribute at least 50% of the total resources required to accomplish the cooperative agreement. Recipient contributions may be in either cash or in-kind or both. In those cases in which a contribution of less than 50% is anticipated from the Recipient, approval of the Associate Administrator for Procurement (Code HS) is required

prior to award. The request for approval should address the evaluation factor in the solicitation and how the proposal accomplishes those objectives to such a degree that a share ratio of less than 50% is warranted.

(3) Fixed Funding. Cooperative agreements are funded by NASA in a fixed amount. Payments in fixed amounts will be made by NASA in accordance with ''Milestone Billings'' which are discussed in paragraph (c)(4) of this section. If the Recipient completes the final milestone, final payment is made, and NASA will have completed its financial responsibilities under the agreement. However, if the cooperative agreement is revoked prior to achievement of all milestones, NASA's funding will be limited to milestone payments already made plus NASA's share of costs incurred by the Recipient since the last milestone payment as reflected in the cost share agreement. In no event shall these additional costs or payment exceed the amount of the next payable milestone billing amount.

(4) Milestone billings is the method of payment to the Recipient under cooperative agreements. Performance based milestones are used as the basis of establishing a set of verifiable milestones for payment purposes. Each milestone payment shall be established so that the Government payment is at the same share ratio as the cooperative agreement share ratio. If the Recipient is a consortium, the Articles of Collaboration is required to contain an extensive list of performance based milestones that the consortium has agreed to. Generally, payments should not be made more than once monthly; ideally, payments will be made about every 60 to 90 days but in all cases should be made on the basis of verifiable, significant events as opposed to the passage of time. The last payment milestone should be large enough to ensure that the Recipient completes its responsibilities under the cooperative agreement (or funds should be reserved for payment until after completion of the cooperative agreement). The Government technical officer must verify completion of each milestone to the Grants Officer as part of the payment process. If the Government's projected cash contribution to a cooperative agreement exceeds $5 million, approval of the Milestone Payment clause, including the milestones and anticipated payments, by the Associate Administrator for Procurement (Code HS)is required prior to award. The request for approval should contain substantially the same information required by 48 CFR (NFS) 1832.7006.

(5) Incremental funding. Cooperative agreements with anticipated annual funding exceeding $5 million may be incrementally funded subject to the following:

(i) Two increments per fiscal year are authorized. The second increment will be the balance of funding for the year.

(ii) The incremental funding provision contained in § 1274.918 is included in the cooperative agreement.

(6) Cost sharing. Cost sharing requirements on cooperative agreements with commercial firms are based on section 23 of the Attachment to OMB Circular A–110, November 23, 1993 (58 FR 62992, November 29, 1993). Only cash or cash equivalent resources are acceptable sources for the Recipient contribution to a cooperative agreement. This includes such items as purchased equipment, equipment, labor, office space, etc. The actual or imputed value of intellectual property such as patent rights, data rights, trade secrets, etc., are not acceptable as sources for the Recipient contribution.

(7) Recipients shall not be paid a profit under cooperative agreements. Profit may be paid by the Recipient to subcontractors, if the subcontractor is not part of the offering team and the subcontract is an arms-length relationship.

(8) The Recipient's resource share of the cooperative agreement may be allocated as part of its IR&D program in accordance with a class deviation pursuant to 48 CFR (NFS) 1831.205–18 (59 FR 22521, May 2, 1994).

(9) The CAN must provide a description of the non-cash Government contribution (personnel, equipment, facilities, etc.) as part of the Government's contribution to the cooperative agreement in addition to funding. The offeror may propose that additional non-monetary Government resources be provided under two conditions. First, the offeror is responsible for verifying the availability of the resources and their suitability for their intended purpose and, second, those resources are considered part of the Government contribution and paid for directly by the awarding organization.

(d) *Consortia as recipients.*

(1) The use of consortia as Recipients for cooperative agreements is encouraged. Consortia will tend to bring to a cooperative agreement a broader range of capabilities and resources. A consortium is a group of organizations that enter into an agreement to collaborate for the purposes of the cooperative agreement with NASA. The agreement to collaborate can take the form of a legal entity such as a partnership or joint venture but it is not necessary that such an entity be created. A consortium may be made up of firms which normally compete for commercial or Government business or may be made up of firms which perform complementary functions in a given industry. The inclusion of a non-profit or educational institutions, small businesses, or small disadvantaged businesses in the consortium could be particularly valuable in ensuring that the results of the consortium's activities are disseminated.

(2) Key to the success of the cooperative agreement with a consortium is the consortium's Articles of Collaboration, which is a definitive description of the roles and responsibilities of the consortium's members. It should also address to the extent appropriate: commitments of financial, personnel, facilities and other resources, a detailed milestone chart of consortium activities, accounting requirements, subcontracting procedures, disputes, term of the agreement, insurance and liability issues, internal and external reporting requirements, management structure of the consortium, obligations of organizations withdrawing from the consortia, allocation of data and patent rights among the consortia members, agreements, if any, to share existing technology and data, the firm which is responsible for the completion of the consortium's responsibilities under the cooperative agreement and has the authority to commit the consortium and receive payments from NASA, employee policy issues, etc.

(3) An outline of the Articles of Collaboration should be required as part of the proposal and evaluated during the source selection process.

(e) *Metric system of measurement.* The Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act (15 U.S.C. 205) declares that the metric system is the preferred measurement system for U.S. trade and commerce. NASA's policy with respect to the metric measurement system is stated in NMI 8010.2A, Use of the Metric System of Measurement in NASA Programs, dated June 11, 1991.

§ 1274.203 Invention and patent rights.

(a) A cooperative agreement covers the disposition of rights relating to inventions and patents between NASA and the Recipient. If the Recipient is a consortium or partnership, rights flowing between multiple organizations in a consortium must be negotiated separately and formally documented, preferably in the Articles of Collaboration.

(b) Patent rights clauses exist for Recipients of the Agreement whether they are:

(1) other than small business or nonprofit organizations (generally referred to as large businesses) or

(2) small businesses or nonprofit organizations. The clauses are required by statute and regulation.

(c) There are five situations in which inventions may arise under a cooperative agreement: Recipient Inventions, Subcontractor Inventions, NASA Inventions, NASA Support Contractor Inventions, and Joint Inventions with Recipient.

(d)(1) *Recipient inventions.*

(i) A Recipient, if a large business, is subject to section 305 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457) relating to property rights in inventions. The term ''invention'' includes any invention, discovery, improvement, or innovation. Title to an invention made under a cooperative agreement by a large business Recipient initially vests with NASA. The Recipient may request a waiver under the NASA Patent Waiver Regulations to obtain title to inventions made under the Agreement. Such a request may be made in advance of the Agreement (or 30 days thereafter) for all inventions made under the Agreement. Alternatively, requests may be made on a case-by-case basis any time an individual invention is made. Such waivers are liberally and expeditiously granted after review by NASA's Invention and Contribution Board and approval by NASA's General Counsel. When a waiver is granted, any inventions made in the performance of work under the Agreement are subject to certain reporting, election and filing requirements, a royalty-free license to the Government, march-in rights, and certain other reservations.

(ii) A Recipient, if a small business or nonprofit organization, may elect to retain title to its inventions. The term ''nonprofit organization'' is defined in 35 U.S.C. 201(i) and includes universities and other institutions of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code. The Government obtains an irrevocable, nonexclusive, royalty-free license.

(2) *Subcontractor Inventions.*

(i) Large Business. If a Recipient enters a subcontract (or similar arrangement) with a large business organization for experimental, developmental, research, design or engineering work in support of the Agreement to be done in the United States, its possessions, or Puerto Rico, Subpart 305 of the Space Act applies. The clause applicable to large business organizations is to be used (suitably modified to identify the parties) in any subcontract. The subcontractor may request a waiver under the NASA Patent Waiver Regulations to obtain rights to inventions made under the subcontract just as a large business Recipient can (see paragraph (d)(1)(i) of this section). It is strongly recommended that a prospective large business subcontractor contact the NASA installation Patent Counsel or Intellectual Property Counsel to assure that the right procedures are followed. Just like the Recipient, any inventions made in the performance of work under the Agreement are subject to certain reporting, election and filing requirements, a royalty-free license to the Government, march-in rights, and certain other reservations.

(ii) Non-profit organization or Small Business. In the event the Recipient enters into a subcontract (or similar arrangement) with a domestic nonprofit organization or a small business firm for experimental, developmental, or research work to be performed under the Agreement, the requirements of 35 U.S.C. 200 et seq. regarding ''Patent Rights in Inventions Made With Federal Assistance,'' apply. The subcontractor has the first option to elect title to any inventions made in the performance of work under the Agreement, subject to specific reporting, election and filing requirements, a royalty-free license to the Government, march-in rights, and certain other reservations that are specifically set forth.

(iii) Work outside the United States. If the Recipient subcontracts for work to be done outside the United States, its possessions or Puerto Rico, the NASA installation Patent Counsel or Intellectual Property Counsel should be contacted for the proper patent rights clause to use and the procedures to follow.

(iv) Notwithstanding the above, and in recognition of the Recipient's substantial contribution, the Recipient is authorized, subject to rights of NASA set forth elsewhere in the Agreement, to:

(A) Acquire by negotiation and mutual agreement rights to a subcontractor's subject inventions as the Recipient may deem necessary, or

(B) If unable to reach agreement pursuant to paragraph (d)(2)(iv)(A) of this section, request that NASA invoke exceptional circumstances as necessary pursuant to 37 CFR 401.3(a)(2) if the prospective subcontractor is a small business firm or nonprofit organization, or for all other organizations, request that such rights for the Recipient be included as an additional reservation in a waiver granted pursuant to 14 CFR 1245.1. The exercise of this exception does not change the flow down of the applicable patent rights clause to subcontractors. Applicable laws and regulations require that title to inventions made under a subcontract must initially reside in either the subcontractor or NASA, not the Recipient. This exception does not change that. The exception does authorize the Recipient to negotiate and reach mutual agreement with the subcontractor for the grant-back of rights. Such grant-back could be an option for an exclusive license or an assignment, depending on the circumstances.

(3) *NASA Inventions.* NASA will use reasonable efforts to report inventions made by its employees as a consequence of, or which bear a direct relation to, the performance of specified NASA activities under an Agreement. Upon timely request, NASA will use its best efforts to grant Recipient first option to acquire either an exclusive or partially-exclusive, revocable, royalty-bearing license, on terms to be negotiated, for any patent applications and patents covering such inventions. This exclusive or partially-exclusive license to the Recipient will be subject to the retention of rights by or on behalf of the Government for Government purposes.

(4) *NASA Support Contractor Inventions.* It is preferred that NASA support contractors be excluded from performing any of NASA's responsibilities under the Agreement since the rights obtained by a NASA support contractor could work against the rights needed by the Recipient. In the event NASA support contractors are tasked to work under the Agreement and inventions are made by support contractor employees, the support contractor will normally obtain rights in such inventions. However, if NASA has the right to acquire or has acquired title to such inventions, upon timely request, NASA will use its best efforts to grant Recipient first option to acquire either an exclusive or partially exclusive, revocable, royalty-bearing license, upon terms to be negotiated, for any patent applications and patents covering such inventions. This exclusive or partially-exclusive license to the Recipient will be subject to the retention of rights by or on behalf of the Government for Government purposes.

(5) *Joint Inventions.*

(i) NASA and the Recipient agree to use reasonable efforts to identify and report to each other any inventions made jointly between NASA employees (or employees of NASA support contractors) and employees of Recipient. For large businesses, the

Headquarters General Counsel may agree that the United States will refrain, for a specified period, from exercising its undivided interest in a manner inconsistent with Recipient's commercial interest. For small business firms and nonprofit organizations, the Associate General Counsel (Intellectual Property) may agree to assign or transfer whatever rights NASA may acquire in a subject invention from its employee to the Recipient as authorized by 35 U.S.C. 202(e). The grant officer negotiating the Agreement with small business firms and nonprofit organizations can agree, up front, that NASA will assign whatever rights it may acquire in a subject invention from its employee to the small business firm or nonprofit organization. Requests under this paragraph shall be made through the Center Patent Counsel.

(ii) NASA support contractors may be joint inventors. If a NASA support contractor employee is a joint inventor with a NASA employee, the same provisions apply as those for NASA Support Contractor Inventions. The NASA support contractor will retain or obtain nonexclusive licenses to those inventions in which NASA obtains title. If a NASA support contractor employee is a joint inventor with a Recipient employee, the NASA support contractor and Recipient will become joint owners of those inventions in which they have elected to retain title or requested and have been granted waiver of title. Where the NASA support contractor has not elected to retain title or has not been granted waiver of title, NASA will jointly own the invention with the Recipient.

(e) *Licenses to Recipient(s).*

(1) Any exclusive or partially exclusive commercial licenses are to be royalty-bearing consistent with Government-wide policy in licensing its inventions. It also provides an opportunity for royalty-sharing with the employee-inventor, consistent with Government-wide policy under the Federal Technology Transfer Act.

(2) Upon application in compliance with 37 CFR part 404—Licensing of Government Owned Inventions, all Recipients shall be granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a subject invention and any resulting patent in which the Government obtains title. Because cooperative agreements are cost sharing cooperative arrangements with a purpose of benefiting the public by improving the competitiveness of the Recipient and the Government receives an irrevocable, nonexclusive, royalty-free license in each Recipient subject invention, it is only equitable that the Recipient receive, at a minimum, a revocable, nonexclusive, royalty-free license in NASA inventions and NASA contractor inventions where NASA has acquired title.

(3) Notice Requirements. Once a Recipient has exercised its option to apply for an exclusive or partially exclusive license, a notice, identifying the invention and the Recipient, is published in the **Federal Register**, providing the public opportunity for filing written objections for 60 days.

(f) Preference for United States Manufacture. Despite any other provision, the Recipient agrees that any products embodying subject inventions or produced through the use of subject inventions shall be manufactured substantially in the United States. The intent of this provision is to support manufacturing jobs in the United States regardless of the status of the Recipient as a domestic or foreign controlled company. However, in individual cases, the requirement to manufacture substantially in the United States, may be waived by the Associate Administrator for Procurement (Code HS) upon a showing by the Recipient that under the circumstances domestic manufacture is not commercially feasible.

(g) Space Act Agreements. Invention and patent rights in cooperative agreements must comply with statutory and regulatory provisions. Where circumstances permit, a Space Act Agreement is available as an alternative instrument which can be more flexible in the area of invention and patent rights.

(h) Data Rights. Data rights provisions can and should be tailored to best achieve the needs and objectives of the respective parties concerned.

(1) The data rights clause at § 1274.905 assumes a substantially equal cost sharing relationship where collaborative research, experimental, developmental, engineering, demonstration, or design activities are to be carried out, such that it is likely that ''proprietary'' information will be developed and/or exchanged under the agreement. If cost sharing is unequal or no extensive research, experimental, developmental, engineering, demonstration, or design activities are likely, a different set of clauses may be appropriate.

(2) The primary question that must be answered when developing data clauses is what does each party need or intend to do with the data developed under the agreement. Accordingly, the data rights clauses may be tailored to fit the circumstances. Where conflicting goals of the parties result in incompatible data provisions, grant officers for the Government must recognize that private companies entering into cooperative agreements bring resources to that relationship and must be allowed to reap an appropriate benefit for the expenditure of those resources. However, since serving a public purpose is a major objective of a cooperative agreement, care must be exercised to ensure the Recipient is not established as a long term sole source supplier of an item or service and is not in a position to take unfair advantage of the results of the cooperative agreement. Therefore, a reasonable time period (two to seven years depending on the technology) should be established after which the data rights will be made public.

(3) Data can be generated from different sources and can have various restrictions placed on its dissemination. Recipient data furnished to NASA can exist prior to, or be produced outside of, the agreement or be produced under the agreement. NASA can also produce data in carrying out its responsibilities under the agreement. Each of these areas need to be covered.

(4) For data, including software, first produced by the Recipient under the agreement, the Recipient may assert copyright. Data exchanged with a notice showing that the data is protected by copyright must include appropriate licenses in order for NASA to use the data as needed.

(5) Recognizing that the dissemination of the results of NASA's activities is a primary objective of a cooperative agreement, the parties should specifically delineate what results will be published and under what conditions. This should be set forth in the clause of the cooperative agreement entitled ''Publication and Reports.'' Any such agreement on the publication of results should be stated to take precedence over any other clause in the cooperative agreement.

(6) In accordance with section 303(b) of the Space Act, any data first produced by NASA under the agreement which embodies trade secrets or financial information that would be privileged or confidential if it had been obtained from a private participant, will be marked with an appropriate legend and maintained in confidence for an agreed to period of up to five years (the maximum allowed by law). This does not apply to data other than that for which there has been agreement regarding publication or distribution. Also, NASA itself may use the marked data (under suitable protective conditions) for agreed-to purposes.

§ 1274.204 Evaluation and selection.

(a) A single technical evaluation factor is typically used for CANs. That evaluation factor may be one of the following: providing research and development or technology transfer, enhancing U.S. competitiveness, or developing a capability among U.S. firms. Award to foreign firms is not precluded if the evaluation factor is satisfied. Subfactors could include such things as fostering U.S. leadership, potential to advance technologies anticipated to enhance U.S. competitiveness, timeliness of proposed accomplishments, private sector commitment to commercialization, identification of specific potential commercial markets, appropriateness of business risk, potential for broad impact on the U.S. technology and knowledge base, level of commitment (contribution of private resources to the project), appropriateness of team member participation and relationships, appropriateness of management planning, relevant experience, qualifications and depth of management and technical staff, quality and appropriateness of resources committed to the project, performance bench marks, technical approach, business approach/resource sharing, past performance, the articles of collaboration, etc.

(b) Technical evaluation.

(1) The technical officer will evaluate proposals in accordance with the criteria in the CAN. Proposals selected for award will be supported by documentation as described in paragraph (c)(1) of this section. When evaluation results in a proposal not being selected, the proposer will be notified in accordance with the CAN.

(2) The technical evaluation of proposals may include peer reviews. Since the business sense of a cooperative agreement proposal is critical to its success, NASA should reserve the right to utilize appropriate outside evaluators to assist in the evaluation of such proposal elements as the business base projections, the market for proposed products, and/or the impact of anticipated product price reductions. The use of outside evaluators shall be approved in accordance with 48 CFR (NFS) 1815.413–2(c)(2). It is strongly recommended that a numerical scoring system be established to rank proposals.

(3) Unsolicited proposals. Evaluation of unsolicited proposals must consider whether: the subject of the proposal is available to NASA from another source without restriction; the proposal closely resembles a pending competitive acquisition; and the research proposed demonstrates an innovative and unique method, approach, or concept. Organizations submitting unaccepted proposals will be notified in writing.

(c) Documentation requirements. For proposals selected for award, the technical officer will prepare and furnish to the grant officer the following documentation:

(1) For a competitively selected proposal, a signed selection statement and technical evaluation based on the evaluation criteria stated in the solicitation.

(2) For an unsolicited proposal, a justification for acceptance of an unsolicited proposal (JAUP) prepared by the cognizant technical office. The JAUP shall be submitted for the approval of the grant officer after review and concurrence at a level above the technical officer. The evaluator shall consider the following factors, in addition to any others appropriate for the particular proposal:

(i) Unique and innovative methods, approaches or concepts demonstrated by the proposal.

(ii) Overall scientific or technical merits of the proposal.

(iii) The offeror's capabilities, related experience, facilities, techniques, or unique combinations of these which are integral factors for achieving the proposal objectives.

(iv) The qualifications, capabilities, and experience of the proposed key personnel who are critical in achieving the proposal objectives.

(v) Current, open solicitations under which the unsolicited proposal could be evaluated.

(d) Cost evaluation.

(1) The grant officer and technical team will determine whether the overall proposed cost of the project is reasonable and that the Recipient's contribution is valid, verifiable, and available. Commitments should be obtained and verified to the extent practical from the offeror or members of the consortia that the proposed contributions can and will be made as specified in the proposal or statement of work.

(i) If the Recipient's verified share on a cooperative agreement equals or exceeds 50% of the total cost of the agreement and the total value of the agreement is less than $5 million, the cost evaluation of the offeror's proposal should focus on the overall reasonableness and timing of the proposer's contribution. Cost and pricing data should not normally be required.

(ii) If the Recipient's share is projected to be less than 50% or the total value of the agreement is more than $5 million, a more in-depth analysis of the proposed costs should be undertaken. Cost and pricing data should be required although certification is not required. An analysis consistent with 48 CFR (FAR) 15.805–3 through 15.805–5 should be performed.

(e) If the cooperative agreement is to be awarded to a consortium, a completed, formally executed Articles of Collaboration is required prior to award.

(f) Printing, binding, and duplicating. Proposals for effort which involve printing, binding, and duplicating in excess of 25,000 pages are subject to the regulations of the Congressional Joint Committee on Printing. The technical office will refer such proposals to the Installation Central Printing Management Officer (ICPMO) to ensure compliance with NMI 1490.1. The grant officer will be advised in writing of the results of the ICPMO review.

§ 1274.205 Award procedures.

(a) *General.* Multiple year cooperative agreements are encouraged, but normally they should not extend beyond two years.

(b) *Award above proposed amount.* Awards of cooperative agreements in response to competitive solicitations will not result in providing more NASA funds or resources than was anticipated in the Recipient's proposal. If additional funds or resources are deemed necessary, they will be provided by the Recipient and the Government cost share will be adjusted downward.

(c) *Changes to cooperative agreements.* Cost growth or in-scope changes shall not increase the amount of NASA's contribution. Additional costs which arise during the performance of the cooperative agreement are the responsibility of the Recipient. Funding for work required beyond the scope of the cooperative agreement must be sought through the submission of a proposal which will be treated as an unsolicited proposal.

(d) *Bilateral award.* All cooperative agreements awarded under this regulation will be awarded on a bilateral basis.

(e) *Certifications and representations.* (1) Unless prohibited by statute or codified regulation, Recipients will be encouraged to submit certifications and representations required by statute, executive order, or regulation on an annual basis, if the Recipients have ongoing and continuing relationships with the agency. Annual certifications and representations shall be signed by responsible officials with the authority to ensure Recipients' compliance with the pertinent requirements.

(2) Civil rights requirements—nondiscrimination in certain Federally-funded programs. Recipients must furnish assurances of compliance with civil rights statutes specified in 14 CFR parts 1250 through 1252. Such assurances are not required for each cooperative agreement, if they have previously been furnished and remain current and accurate. Certifications to NASA are normally made on NASA Form 1206, which may be obtained from the grant officer. Upon acceptance, the grant officer will forward assurances to the NASA Office of Equal Opportunity Programs for recording and retention purposes.

(3) NASA cooperative agreements are subject to the provisions of 14 CFR part 1265, Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide requirements for Drug-Free Workplace (Grants), unless excepted by §§ 1265.110 1265.610.

(4) *Lobbying Certification*. A Lobbying Certification in accordance with 14 CFR part 1271 will be obtained prior to award.

(f) Indemnification under Pub. L. 85–804 is not authorized for cooperative agreements.

§ 1274.206 Document format and numbering.

(a) *Formats*. Grant officers are authorized to use the format in Exhibit A of Appendix C to this part 1274 for the award of all cooperative agreements. Computer-generated versions and omission of inapplicable items are allowed.

(b) *Cooperative agreement numbering*. The identification numbering system for all cooperative agreements shall conform to 48 CFR (NFS) 1804.7102–3, except that a NCC prefix will be used in lieu of the NAS prefix.

§ 1274.207 Distribution of cooperative agreements.

Copies of cooperative agreements and modifications will be provided to: Payment office, technical officer, administrative grant officer when delegation has been made, NASA Center for Aerospace Information (CASI), Attn: Document Processing Subpart, 800 Elkridge Landing Road, Linthicum Heights, Maryland 21090–2934, and any other appropriate recipient. Copies of the statement of work, contained in the Recipient's proposal and accepted by NASA, will be provided to the administrative grant officer and CASI. The cooperative agreement file will contain a record of the addresses for distributing agreements and supplements.

Subpart C—Administration

§ 1274.301 Delegation of administration.

Normally, cooperative agreements will be administered by the awarding activity.

§ 1274.302 Transfers, novations, and change of name agreements.

(a) *Transfer of cooperative agreements*. Novation is the only means by which a cooperative agreement may be transferred from one Recipient to another.

(b) *Novation and change of name*. All novation agreements and change of name agreements of the Recipient, prior to execution, shall be reviewed by NASA legal counsel for legal sufficiency prior to approval.

Subpart D—Government Property

§ 1274.401 Government property.

The accomplishment of a cooperative agreement may require the purchase of equipment for a wide range of purposes. If this equipment is purchased with Government funds, i.e., as part of the Government contribution to the cooperative agreement, it becomes Government property and must be disposed of in accordance with 48 CFR (FAR) Part 45 at the conclusion of the cooperative agreement. In some cases, this may meet the needs of the parties. If, however, the Recipient may need the equipment to continue commercial efforts following the cooperative agreement, it should be purchased by the Recipient and included as an in-kind contribution of the Recipient. In this way, it is not procured, not even in part, with Government funds and the Government acquires no ownership interest. Procurement by the Recipient may be before or during the performance of the cooperative agreement.

Subpart E—Procurement Standards

§ 1274.501 Subcontracts.

All contracts, including small purchases, awarded by Recipients and their contractors shall contain the procurement provisions of Appendix A to this part, as applicable.

Subpart F—Reports and Records

§ 1274.601 Retention and access requirements for records.

(a) This Subpart sets forth requirements for record retention and access to records for awards to Recipients.

(b) Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three years from the date of submission of the final invoice. The only exceptions are the following:

(1) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.

(2) Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.

(3) When records are transferred to or maintained by NASA, the 3-year retention requirement is not applicable to the Recipient.

(4) Indirect cost rate proposals, cost allocations plans, etc. as specified in paragraph (g) of this section.

(c) Copies of original records may be substituted for the original records if authorized by NASA.

(d) NASA shall request transfer of certain records to its custody from Recipients when it determines that the records possess long term retention value. However, in order to avoid duplicate record keeping, NASA may make arrangements for Recipients to retain any records that are continuously needed for joint use.

(e) NASA, the Inspector General, Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of Recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a Recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but shall last as long as records are retained.

(f) Unless required by statute, NASA shall not place restrictions on Recipients that limit public access to the records of Recipients that are pertinent to an award, except when NASA can demonstrate that such records shall be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to NASA.

(g) *Indirect cost rate proposals, cost allocations plans, etc*. This paragraph applies to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of

the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) *If submitted for negotiation*. If the Recipient submits to NASA or the subrecipient submits to the Recipient the proposal, plan, or other computation to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts on the date of such submission.

(2) *If not submitted for negotiation*. If the Recipient is not required to submit to NASA or the subrecipient is not required to submit to the Recipient the proposal, plan, or other computation for negotiation purposes, then the 3-year retention period for the proposal, plan, or other computation and its supporting records starts at the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

Subpart G—Suspension or Revocation

§ 1274.701 Suspension or revocation.

A cooperative agreement provides both NASA and the Recipient the ability to revoke the agreement if it is in their best interests to do so. For example, NASA may revoke the agreement if the Recipient is not making anticipated technical progress or if the Recipient materially fails to comply with the terms of the agreement. Similarly, the Recipient may revoke the agreement if technical progress is not being made, if the firms are shifting their technical emphasis, or if other technological advances have made the effort obsolete. NASA may also suspend the cooperative agreement for a short period of time if an assessment needs to be made as to whether the agreement should be revoked or not.

Subpart H—After-the-Award Requirements

§ 1274.801 Purpose.

Sections 1274.802 and 1274.803 contain closeout procedures and other procedures for subsequent disallowances and adjustments.

§ 1274.802 Closeout procedures.

(a) Recipients shall submit, within 90 calendar days after the date of completion of the cooperative agreement, all financial, performance, and other reports as required by the terms and conditions of the award. Extensions may be approved when requested by the Recipient.

(b) The Recipient shall account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with Subpart D of this part.

§ 1274.803 Subsequent adjustments and continuing responsibilities.

The closeout of an award does not affect any of the following:

(a) Audit requirements in § 1274.933.

(b) Property management requirements in subpart D of this part.

(c) Records retention as required in § 1274.601.

Subpart I—Other Provisions and Special Conditions

§ 1274.901 Other provisions and special conditions.

The provisions set forth in this subpart are to be incorporated in and made a part of all cooperative agreements. The provisions at §§ 1274.902 through 1274.909 are to be incorporated in full text substantially as stated in this regulation. The provisions at §§ 1274.910 through 1274.933 will be incorporated by reference in an enclosure to each cooperative agreement (see Exhibit A as listed in Appendix C to this part). For inclusion of provisions in subcontracts, see Subpart E—Procurement Standards of this part.

§ 1274.902 Purpose (XXX 1995)

The purpose of this cooperative agreement is to conduct a shared resource project that will lead to _____. This cooperative agreement will advance the technology developments and research which have been performed on _____. The specific objective is to _____. This work will culminate in _____.

§ 1274.903 Responsibilities (XXX 1995).

(a) This cooperative agreement will include substantial NASA participation during performance of the effort. NASA and the Recipient agree to the following Responsibilities, a statement of cooperative interactions to occur during the performance of this effort. NASA and the Recipient shall exert all reasonable efforts to fulfill the responsibilities stated below.

(b) *NASA Responsibilities.* Since NASA contractors may obtain certain intellectual property rights arising from work for NASA in support of this agreement, NASA will inform Recipient whenever NASA intends to use NASA contractors to perform technical engineering services in support of this agreement. The following responsibilities are hereby set forth with anticipated start and ending dates, as appropriate:

Responsibility	Start	End

(c) *Recipient Responsibilities.* The Recipient shall be responsible for particular aspects of project performance as set forth in the technical proposal dated _____, attached hereto (or Statement of Work dated _____, attached hereto.) The following responsibilities are hereby set forth with anticipated start and ending dates, as appropriate:

Responsibility	Start	End

§ 1274.904 Resource Sharing Requirements (XXX 1995).

(a) NASA and the Recipient will share in providing the resources necessary to perform the agreement. NASA funding and non-cash contributions (personnel, equipment, facilities, etc.) and the dollar value of the Recipient's cash and/or in-kind contribution will be on a _____ (NASA)–_____ (Recipient) basis. Criteria and procedures for the allowability and allocability of cash and in-kind contributions shall be governed by Section 23, ''Cost Sharing or Matching,'' of the Attachment to OMB Circular A–110 (58 FR 62992, November 29, 1993). The ''applicable federal cost principles'' cited in OMB Circular A–110 are 48 CFR (FAR) Part 31, entitled ''Contract Cost Principles and Procedures.''

(b) The Recipient's share shall not be charged to the Government under this agreement or under any other contract, grant, or cooperative agreement, except that the Recipient's contribution may be considered as allowable IR&D costs pursuant to 48 CFR (NFS) 1831.205–18.

§ 1274.905 Rights in Data (XXX 1995)

(a) Definitions.

Data means recorded information, regardless of form, the media on which it may be recorded, or the method of recording. The term includes, but is not limited to, data of a scientific or technical nature, computer software and documentation thereof, and data comprising commercial and financial information.

(b) Data Categories.

(1) *General:* Data exchanged between NASA and Recipient under this cooperative agreement will be exchanged without restriction as to its disclosure, use or duplication except as otherwise provided below in this provision.

(2) *Background Data*: In the event it is necessary for Recipient to furnish NASA with Data which existed prior to, or produced outside of, this cooperative agreement, and such Data embodies trade secrets or comprises commercial or financial information which is privileged or confidential, and such Data is so identified with a suitable notice or legend, the Data will be maintained in confidence and disclosed and used by NASA and its contractors (under suitable protective conditions) only for the purpose of carrying out NASA's responsibilities under this cooperative agreement. Upon completion of activities under this agreement, such Data will be disposed of as requested by Recipient.

(3) *Data first produced by Recipient*: In the event Data first produced by Recipient in carrying out Recipient's responsibilities under this cooperative agreement is furnished to NASA, and Recipient considers such Data to embody trade secrets or to comprise commercial or financial information which is privileged or confidential, and such Data is so identified with a suitable notice or legend, the Data will be maintained in confidence and disclosed and used by [''NASA'' or ''the Government,'' as appropriate] and its contractors (under suitable protective conditions) only for [insert appropriate purpose; for example: experimental; evaluation; research; development, etc.] by or on behalf of [''NASA'' or ''the Government'' as appropriate]. In order that [''NASA'' or the ''Government'', as appropriate] and its contractors may exercise the right to use such Data for the purposes designated above, NASA, upon request to the Recipient, shall have the right to review and request delivery of Data first produced by Recipient. Delivery shall be made within a time period specified by NASA.

(4) *Data first produced by NASA:* As to Data first produced by NASA in carrying out NASA's responsibilities under this cooperative agreement and which Data would embody trade secrets or would comprise commercial or financial information that is privileged or confidential if obtained from the Recipient, such Data will, to the extent permitted by law, be appropriately marked with a notice or legend and maintained in confidence for a period of ( ) years [INSERT A PERIOD UP TO 5 YEARS] after development of the information, with the express understanding that during the aforesaid period such Data may be disclosed and used (under suitable protective conditions) by or on behalf of the Government for Government purposes only, and thereafter for any purpose whatsoever without restriction on disclosure and use. Recipient agrees not to disclose such Data to any third party without NASA's written approval until the aforementioned restricted period expires.

(5) *Copyright*. In the event Data is exchanged with a notice indicating the Data is protected under copyright as a published copyrighted work, or are deposited for registration as a published work in the U.S. Copyright Office, the following paid-up licenses shall apply:

(i) If it is indicated on the Data that the Data existed prior to, or was produced outside of, this agreement, the receiving party and others acting on its behalf, may reproduce, distribute, and prepare derivative works for the purpose of carrying out the receiving party's responsibilities under this cooperative agreement; and

(ii) If the furnished Data does not contain the indication of paragraph (b)(5)(i) of this section, it will be assumed that the Data was first produced under this agreement, and the receiving party and others acting on its behalf, shall be granted a paid up, nonexclusive, irrevocable, world-wide license for all such Data to reproduce, distribute copies to the public, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the receiving party. For Data that is computer software, the right to distribute shall be limited to potential users in the United States. When claim is made to copyright, the Recipient shall affix the applicable copyright notice of 17 U.S.C. 401 or 402 and acknowledgment of Government sponsorship to the data when and if the data are delivered to the Government.

(6) *Oral and visual information*. If information which the Recipient considers to embody trade secrets or to comprise commercial or financial information which is privileged or confidential is disclosed orally or visually to NASA, such information must be reduced to tangible, recorded form (i.e., converted into Data as defined herein), identified and marked with a suitable notice or legend, and furnished to NASA within 10 days after such oral or visual disclosure, or NASA shall have no duty to limit or restrict, and shall not incur any liability for, any disclosure and use of such information.

(7) *Disclaimer of Liability*. Notwithstanding the above, NASA shall not be restricted in, nor incur any liability for, the disclosure and use of:

(i) Data not identified with a suitable notice or legend as set in paragraph (b)(2) of this section; nor

(ii) Information contained in any Data for which disclosure and use is restricted under paragraphs (b)(2) or (3) of this section, if such information is or becomes generally known without breach of the above, is known to or is generated by NASA independently of carrying out responsibilities under this agreement, is rightfully received from a third party without restriction, or is included in data which Participant has, or is required to furnish to the U.S. Government without restriction on disclosure and use.

(c) *Marking of Data.* Any Data delivered under this cooperative agreement, by NASA or the Recipient, shall be marked with a suitable notice or legend indicating the data was generated under this cooperative agreement.

(d) *Lower Tier Agreements.* The Recipient shall include this provision, suitably modified to identify the parties, in all subcontracts or lower tier agreements, regardless of tier, for experimental, developmental, or research work.

§ 1274.906 Designation of New Technology Representative and Patent Representative (XXX 1995).

(a) For purposes of administration of the clause of this cooperative agreement entitled ''PATENT RIGHTS—RETENTION BY THE CONTRACTOR (LARGE BUSINESS)'' or ''PATENT RIGHTS—RETENTION BY THE CONTRACTOR (SMALL BUSINESS)'' the following named representatives are hereby designated by the Grant Officer to administer such clause:

Title	Office code	Address
— New Technology Representative Patent Representative		

(b) Reports of reportable items, and disclosure of subject inventions, interim reports, final reports, utilization reports, and other reports required by the clause, as well as any correspondence with respect to such matters, should be directed to the New Technology Representative unless transmitted in response to correspondence or request from the Patent Representative. Inquiries or requests regarding disposition of rights, election of rights, or related matters should be directed to the Patent Representative. This clause shall be included in any subcontract hereunder requiring ''PATENT RIGHTS—RETENTION BY THE CONTRACTOR (LARGE BUSINESS)''

clause or ''PATENT RIGHTS—RETENTION BY THE CONTRACTOR (SMALL BUSINESS)'' clause, unless otherwise authorized or directed by the Grant Officer. The respective responsibilities and authorities of the above-named representatives are set forth in 48 CFR (NFS) 1827.375–3.

§ 1274.907 Disputes (XXX 1995).

(a) The parties to this agreement shall communicate with one another in good faith and in a timely and cooperative manner when raising issues under this provision.

(b) Any dispute, which for the purposes of this provision includes any disagreement or claim, between NASA and the Recipient concerning questions of fact or law arising from or in connection with this agreement and whether or not involving alleged breach of this agreement, may be raised only under this provision.

(c) Whenever a dispute arises, the parties shall attempt to resolve the issues involved by discussion and mutual agreement as soon as practicable. In no event shall a dispute which arose more than three (3) months prior to the notification made under the following paragraph of this provision constitute the basis for relief under this article unless NASA waives this requirement.

(d) Failing resolution by mutual agreement, the aggrieved party shall document the dispute by notifying the other party in writing of the relevant facts, identify unresolved issues, and specify the clarification or remedy sought. Within five (5) working days after providing written notice to the other party, the aggrieved party may, in writing, request a decision by _____ [Suggest this be the Center Director], the Dispute Resolution Official. The other party shall submit a written position on the matters in dispute within thirty (30) calendar days after being notified that a decision has been requested. The dispute resolution official shall conduct a review of the matters in dispute and render a decision in writing within thirty (30) calendar days of receipt of such written position. Such resolution is not subject to further administrative review and, to the extent permitted by law, shall be final and binding.

§ 1274.908 Milestone Payments (XXX 1995)

(a) By submission of the first invoice, the Recipient is certifying that it has an established accounting system which complies with generally accepted accounting principles, with the requirements of this agreement, and that appropriate arrangements have been made for receiving, distributing, and accounting for Federal funds received under this agreement.

(b) Payments will be made upon the following milestones: [The schedule for obligation may be based upon the Recipient's completion of specific tasks, submission of specified reports, or whatever is appropriate.]

Date	Payment milestone	Amount

(c) Upon submission by the Recipient of invoices in accordance with the provisions of the agreement and upon certification by NASA of completion of the payable milestone, the grant officer shall authorize payment.

(d) A payment milestone may be successfully completed in advance of the date appearing in paragraph (b) of this section. However, payment shall not be made prior to that date without the written consent of the Grant Officer.

(e) The contractor is not entitled to partial payment for partial completion of a payment milestone.

(f) All preceding payment milestones must be completed before payment can be made for the next payment milestone.

(g) Invoices hereunder shall be submitted in the original and five copies to the grant officer for certification.

§ 1274.909 Term of this Agreement (XXX 1995).

The agreement commences on the effective date indicated on the attached cover sheet and continues until the expiration date indicated on the attached cover. If all resources are expended prior to the duration, the parties have no obligation to continue performance and may elect to cease at that point. The parties may extend the expiration date if additional time is required to complete the milestones at no increase in Government resources. Provisions of this Agreement, which, by their express terms or by necessary implication, apply for periods of time other than that specified as the agreement term, shall be given effect, notwithstanding expiration of the term of the agreement.

§ 1274.910 Authority (XXX 1995).

This is a cooperative agreement as defined in 31 U.S.C. 6305 (the Chiles Act) and is entered into pursuant to the authority of 42 U.S.C. 2451, et seq. (the Space Act).

§ 1274.911 Patent Rights (XXX 1995).

(a) *Definitions.*

(1) *Contract* means any actual or proposed contract, cooperative agreement, agreement, understanding, or other arrangement, and includes any assignment, substitution of parties, or subcontract executed or entered into thereunder.

(2) *Contracting Officer* means the contracting officer or grant officer executing this agreement on behalf of the Government.

(3) *Invention* means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code.

(4) *Made* when used in relation to any invention means the conception or first actual reduction to practice such invention.

(5) *Nonprofit organization* means a domestic university or other institution of higher education or an organization of the type described in Subpart 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under Subpart 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)), or any domestic nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

(6) *Practical application* means to manufacture, in the case of a composition or product; to practice, in the case of a process or method; or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(7) *Recipient* means:

(i) [Identify the signatory party or parties] or;

(ii) The [identify the Consortium], where the Consortium has been formed for carrying out their responsibilities under this agreement.

(8) *Small Business Firm* means a domestic small business concern as defined at 15 U.S.C. 632 and implementing regulations of the Administrator of the Small Business Administration. (For the purpose of this definition, the size standard contained in 13 CFR 121.3–8 for small business contractors and in 13 CFR 121.3–12 for small business subcontractors will be used.)

(9) *Subject Invention* means any invention of a Recipient and/or Government employee conceived or first actually reduced to practice in the performance of work under this contract.

(b) *Allocation of Principal Rights.*

(1) *Contractor Inventions.* For other than Small Business Firm or Nonprofit organization Recipients, the ''PATENT RIGHTS—RETENTION BY CONTRACTOR (LARGE BUSINESS)'' provision applies. For Small Business Firm and Nonprofit organization Recipients, the ''PATENT RIGHTS—RETENTION BY CONTRACTOR (SMALL BUSINESS)'' provision applies.

(2) *NASA Inventions.* NASA will use reasonable efforts to report inventions made by NASA employees as a consequence of, or which bear a direct relation to, the performance of specified NASA activities under this cooperative agreement and, upon timely request, will grant the Recipient, the first option to acquire either an exclusive or partially exclusive, revocable, royalty-bearing license, on terms to be subsequently negotiated, for any patent applications and patents covering such inventions, and subject to the license reserved in paragraph (b)(5)(i) of this section. Upon application in compliance with 37 CFR Part 404—Licensing of Government Owned Inventions, the Recipient or each Consortium Member (if applicable), shall be granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a subject invention and any resulting patent in which the Government acquires title. Each nonexclusive license may extend to subsidiaries and affiliates, if any, within the corporate structure of the licensee and includes the right to grant sublicenses of the same scope to the extent the licensee was legally obligated to do so at the time the cooperative agreement was signed.

(3) *NASA Contractor Inventions.* In the event NASA contractors are tasked to perform work in support of specified NASA activities under this cooperative agreement and inventions are made by contractor employees, and NASA has the right to acquire or has acquired title to such inventions, NASA will use reasonable efforts to report such inventions and, upon timely request, will grant the Recipient or designated Consortium Member (if applicable), the first option to acquire either an exclusive or partially exclusive, revocable, royalty-bearing license, upon terms to be subsequently negotiated, for any patent applications and patents covering such inventions, and subject to the license reserved in paragraph (b)(5)(ii) of this section. Upon application in compliance with 37 CFR part 404—Licensing of Government Owned Inventions, the Recipient or each Consortium Member (if applicable), shall be granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a subject invention and any resulting patent in which the Government acquires title. Each nonexclusive license may extend to subsidiaries and affiliates, if any, within the corporate structure of the licensee and includes the right to grant sublicenses of the same scope to the extent the licensee was legally obligated to do so at the time the cooperative agreement was signed.

(4) *Joint NASA and Recipient Inventions.* NASA and Recipient agree to use reasonable efforts to identify and report to each other any inventions made jointly between NASA employees (or employees of NASA contractors) and employees of Recipient.

(i) For other than small business firms and nonprofit organizations the Administrator may agree that the United States will refrain from exercising its undivided interest in a manner inconsistent with Recipient's commercial interest and to cooperate with Recipient in obtaining patent protection on its undivided interest on any waived inventions subject, however, to the condition that Recipient makes its best efforts to bring the invention to the point of practical application at the earliest practicable time. In the event that the Administrator determines that such efforts are not undertaken, the Administrator may void NASA's agreement to refrain from exercising its undivided interest and grant licenses for the practice of the invention so as to further its development. In the event that the Administrator decides to void NASA's agreement to refrain from exercising its undivided interest and grant licenses for this reason, notice shall be given to the Inventions and Contributions Board as to why such action should not be taken. Either alternative will be subject to the applicable license or licenses reserved in paragraph (b)(5) of this section.

(ii) For small business firms and nonprofit organization, NASA may assign or transfer whatever rights it may acquire in a subject invention from its employee to the Recipient as authorized by 35 U.S.C. 202(e).

(5) *Minimum rights reserved by the Government.* Any license or assignment granted Recipient pursuant to paragraphs (b)(2), (b)(3), or (b)(4) of this section will be subject to the reservation of the following licenses:

(i) As to inventions made solely or jointly by NASA employees, the irrevocable, royalty-free right of the Government of the United States to practice and have practiced the invention by or on behalf of the United States; and

(ii) As to inventions made solely by, or jointly with, employees of NASA contractors, the rights in the Government of the United States as set forth in paragraph (b)(5)(i) of this section, as well as the revocable, nonexclusive, royalty-free license in the contractor as set forth in 14 CFR 1245.108.

(6) *Preference for United States manufacture.* The Recipient agrees that any products embodying subject inventions or produced through the use of subject inventions shall be manufactured substantially in the United States. However, in individual cases, the requirement to manufacture substantially in the United States may be waived by NASA upon a showing by the Recipient that under the circumstances domestic manufacture is not commercially feasible.

(7) Work performed by the Recipient under this cooperative agreement is considered undertaken to carry out a public purpose of support and/or stimulation rather than for acquiring property or services for the direct benefit or use of the Government. Accordingly, such work by the Recipient is not considered ''by or for the United States'' and the Government assumes no liability for infringement by the Recipient under 28 U.S.C. 1498.

§ 1274.912 Patent Rights—Retention by the Contractor (Large Business) (XXX 1995)

(a) *Definitions.*

(1) *Administrator,* as used in this clause, means the Administrator of the National Aeronautics and Space Administration (NASA) or duly authorized representative.

(2) *Contract,* as used in this clause, means any actual or proposed contract, cooperative agreement, agreement, under-standing, or other arrangement, and includes any assignment, substitution of parties, or subcontract executed or entered into thereunder.

(3) *Contracting Officer* means the contracting officer or grant officer executing this agreement on behalf of the Government.

(4) *Invention,* as used in this clause, means any invention or discovery which is or may be patentable or otherwise protectable under title 35 of the U.S.C.

(5) *Made,* as used in relation to any invention, means the conception or first actual reduction to practice such invention.

(6) *Nonprofit organization,* as used in this clause, means a domestic university or other institution of higher education or an organization of the type described

in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)), or any domestic nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

(7) *Practical application,* as used in this clause, means to manufacture, in the case of a composition or product; to practice, in the case of a process or method; or to operate, in case of a machine or system; and, in each, case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(8) *Reportable item,* as used in this clause, means any invention, discovery, improvement, or innovation of the contractor, whether or not the same is or may be patentable or otherwise protectable under Title 35 of the United States Code, conceived or first actually reduced to practice in the performance of any work under this contract or in the performance of any work that is reimbursable under any clause in this contract providing for reimbursement of costs incurred prior to the effective date of this contract.

(9) *Small business firm,* as used in this clause, means a domestic small business concern as defined at 15 U.S.C. 632 and implementing regulations of the Administrator of the Small Business Administration. (For the purpose of this definition, the size standard contained in 13 CFR 121.3–8 for small business contractors and in 13 CFR 121.3–12 for small business subcontractors will be used.)

(10) *Subject invention,* as used in this clause, means any reportable item which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant that is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321, *et seq*).

(b) *Allocation of principal rights.*—(1) *Presumption of title.* (i) Any reportable item that the Administrator considers to be a subject invention shall be presumed to have been made in the manner specified in paragraph (1) or (2) of Section 305(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(a)) (hereinafter called ''the Act''), and the above presumption shall be conclusive unless at the time of reporting the reportable item the Recipient submits to the Contracting Officer a written statement, containing supporting details, demonstrating that the reportable item was not made in the manner specified in paragraph (1) or (2) of Section 305(a) of the Act.

(ii) Regardless of whether title to a given subject invention would otherwise be subject to an advance waiver or is the subject of a petition for waiver, the Contractor may nevertheless file the statement described in paragraph (b)(1)(i) of this section. The Administrator will review the information furnished by the Contractor in any such statement and any other available information relating to the circumstances surrounding the making of the subject invention and will notify the Contractor whether the Administrator has determined that the subject invention was made in the manner specified in paragraph (1) or (2) of Section 305(a) of the Act.

(2) *Property rights in subject inventions.* Each subject invention for which the presumption of paragraph (b)(1)(i) of this section is conclusive or for which there has been a determination that it was made in the manner specified in paragraph (1) or (2) of section 305(a) of the Act shall be the exclusive property of the United States as represented by NASA unless the Administrator waives all or any part of the rights of the United States, as provided in paragraph (b)(3) of this section.

(3) *Waiver of rights.* (i) Section 305(f) of the Act provides for the promulgation of regulations by which the Administrator may waive the rights of the United States with respect to any invention or class of inventions made or that may be made under conditions specified in paragraph (1) or (2) of section 305(a) of the Act. The promulgated NASA Patent Waiver Regulations, 14 CFR part 1245, subpart 1, have adopted the Presidential memorandum on Government Patent Policy of February 18, 1983, as a guide in acting on petitions (requests) for such waiver of rights.

(ii) As provided in 14 CFR part 1245, subpart 1, Contractors may petition, either prior to execution of the contract or within 30 days after execution of the contract, for advance waiver of rights to any or all of the inventions that may be made under a contract. If such a petition is not submitted, or if after submission it is denied, the Contractor (or an employee inventor of the Contractor may petition for waiver of rights to an identified subject invention within eight months of first disclosure of invention in accordance with paragraph (e)(2) of this section or within such longer period as may be authorized in accordance with 14 CFR 1245.105. Further procedures are provided in the REQUESTS FOR WAIVER OF RIGHTS—LARGE BUSINESS provision.

(c) *Minimum rights reserved by the Government.* (1) With respect to each contractor subject invention for which a waiver of rights is applicable in accordance with 14 CFR part 1245, subpart 1, the Government reserves—

(i) An irrevocable, royalty-free license for the practice of such invention throughout the world by or on behalf of the United States or any foreign government in accordance with any treaty or agreement with the United States; and

(ii) Such other rights as stated in 14 CFR 1245.107.

(2) Nothing contained in this paragraph shall be considered to grant to the Government any rights with respect to any invention other than a subject invention.

(d) *Minimum rights to the Contractor.* (1) The Contractor is hereby granted a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a contractor subject invention and any resulting patent in which the Government acquires title, unless the Contractor fails to disclose the subject invention within the times specified in paragraph (e)(2) of this section. The Contractor's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure ofich the Contractor is a party and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the Administrator except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by the Administrator to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with 14 CFR part 1245, subpart 2, Licensing of NASA Inventions. This license will not be revoked in that field of use or the geographical areas in which the Recipient has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the Administrator to the extent the Recipient, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the Contractor will be provided a written notice of the Administrator's intention to revoke or modify the license, and the Contractor will be allowed 30 days (or such other time as may be authorized by the Administrator for good cause shown by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with 14 CFR 1245.211, any decision concerning the revocation or modification of its license.

(e) *Invention identification, disclosures, and reports.* (1) The Contractor shall establish and maintain active and effective procedures to assure that reportable items are promptly identified and disclosed to Contractor personnel responsible for the administration of this clause within six months of conception and/or first actual reduction to practice, whichever occurs first in the performance of work under this contract. These procedures shall include the maintenance of laboratory notebooks or equivalent records and other records as are reasonably necessary to document the conception and/or the first actual reduction to practice of the reportable items, and records that show that the procedures for identifying and disclosing reportable items are followed. Upon request, the Contractor shall furnish the Contracting Officer a description of such procedures for evaluation and for determination as to their effectiveness.

(2) The Contractor will disclose each reportable item to the Contracting Officer within two months after the inventor discloses it in writing to Contractor personnel responsible for the administration of this clause or, if earlier, within six months after the Recipient becomes aware that a reportable item has been made, but in any event for subject inventions before any on sale, public use, or publication of such invention known to the Recipient. The disclosure to the agency shall be in the form of a written report and shall identify the contract under which the reportable item was made and the inventor(s) or innovator(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and physical, chemical, biological, or electrical characteristics of the reportable item. The disclosure shall also identify any publication, on sale, or public use of any subject invention and whether a manuscript describing such invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the agency, the Contractor will promptly notify the agency of the acceptance of any manuscript describing a subject invention for publication or of any on sale or public use planned by the Contractor for such invention.

(3) The Contractor shall furnish the Contracting Officer the following:

(i) Interim reports every 12 months (or such longer period as may be specified by the Contracting Officer) from the date of the contract, listing reportable items during that period, and certifying that all reportable items have been disclosed (or that there are no such inventions) and that the procedures required by paragraph (e)(1) of this section have been followed.

(ii) A final report, within three months after completion of the contracted work, listing all reportable items or certifying that there were no such reportable items, and listing all subcontracts at any tier containing a patent rights clause or certifying that there were no such subcontracts.

(4) The Contractor agrees, upon written request of the Contracting Officer, to furnish additional technical and other information available to the Recipient as is necessary for the preparation of a patent application on a subject invention and for the prosecution of the patent application, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions.

(5) The Contractor agrees, subject to 48 CFR (FAR) 27.302(j), that the Government may duplicate and disclose subject invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this clause.

(f) *Examination of records relating to inventions.* (1) The Contracting Officer or any authorized representative shall, pursuant to the Retention and Examination of Records provision of this cooperative agreement, have the right to examine any books (including laboratory notebooks), records, and documents of the Recipient relating to the conception or first actual reduction to practice of inventions in the same field of technology as the work under this contract to determine whether—

(i) Any such inventions are subject inventions;

(ii) The Contractor has established and maintained the procedures required by paragraph (e)(1) of this section; and

(iii) The Contractor and its inventors have complied with the procedures.

(2) If the Contracting Officer learns of an unreported Contractor invention that the Contracting Officer believes may be a subject invention, the Contractor may be required to disclose the invention to the agency for a determination of ownership rights.

(3) Any examination of records under this paragraph will be subject to appropriate conditions to protect the confidentiality of the information involved.

(g) *Subcontracts.* (1) Unless otherwise authorized or directed by the Contracting Officer, the Contractor shall—

(i) Include this provision PATENT RIGHTS—RETENTION BY THE CONTRACTOR—(LARGE BUSINESS) (suitably modified to identify the parties) in any subcontract hereunder (regardless of tier) with other than a small business firm or nonprofit organization for the performance of experimental, developmental, or research work; and

(ii) Include the provision PATENT RIGHT—RETENTION BY THE CONTRACTOR—(SMALL BUSINESS) (suitably modified to identify the parties) in any subcontract hereunder (regardless of tier) with a small business firm or nonprofit organization for the performance of experimental, developmental, or research work.

(2) In the event of a refusal by a prospective subcontractor to accept such a clause the Contractor—

(i) Shall promptly submit a written notice to the Contracting Officer setting forth the subcontractor's reasons for such refusal and other pertinent information that may expedite disposition of the matter; and

(ii) Shall not proceed with such subcontract without the written authorization of the Contracting Officer.

(3) The Contractor shall promptly notify the Contracting Officer in writing upon the award of any subcontract at any tier containing a patent rights clause by identifying the subcontractor, the applicable patent rights clause, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Contracting Officer, the Contractor shall furnish a copy of such subcontract, and, no more frequently than annually, a listing of the subcontracts that have been awarded.

(4) The subcontractor will retain all rights provided for the Contractor in the clause of paragraph (g)(1)(i) or (1)(ii) of this section, whichever is included in the subcontract, and the Contractor will not, as part of the consideration for awarding the subcontract, obtain rights

in the subcontractor's subject inventions.

(5) Notwithstanding paragraph (g)(4) of this section, and in recognition of the contractor's substantial contribution of funds, facilities and/or equipment to the work performed under this cooperative agreement, the contractor is authorized, subject to the rights of NASA set forth elsewhere in this clause, to:

(i) Acquire by negotiation and mutual agreement rights to a subcontractor's subject inventions as the contractor may deem necessary to obtaining and maintaining of such private support; and

(ii) Request, in the event of inability to reach agreement pursuant to paragraph (g)(5)(i) of this section, that NASA invoke exceptional circumstances as necessary pursuant to 37 CFR 401.3(a)(2) if the prospective subcontractor is a small business firm or organization, or for all other organizations, request that such rights for the contractor be included as an additional reservation in a waiver granted pursuant to 14 CFR part 1245, subpart 1. Any such requests to NASA should be prepared in consideration of the following guidance and submitted to the contract officer.

(A) *Exceptional circumstances:* A request that NASA make an ''exceptional circumstances'' determination pursuant to 37 CFR 401.3(a)(2) must state the scope of rights sought by the contractor pursuant to such determination; identify the proposed subcontractor and the work to be performed under the subcontract; and state the need for the determination.

(B) *Waiver petition:* The subcontractor should be advised that unless it requests a waiver of title pursuant to the NASA Patent Waiver Regulations (14 CFR part 1245, subpart 1), NASA will acquire title to the subject invention (42 U.S.C. 2457, as amended, Sec. 305). If a waiver is not requested or granted, the contractor may request a license from NASA (see licensing of NASA inventions, 14 CFR part 1245, subpart 2). A subcontractor requesting a waiver must follow the procedures set forth in the attached clause REQUESTS FOR WAIVER OF RIGHTS—LARGE BUSINESS.

(h) *Preference for United States manufacture.* The Contractor agrees that any products embodying subject inventions or produced through the use of subject inventions shall be manufactured substantially in the United States. However, in individual cases, the requirement to manufacture substantially in the United States may be waived by NASA upon a showing by the Contractor that under the circumstances domestic manufacture is not commercially feasible.

(i) *March-in rights.* The Contractor agrees that, with respect to any subject invention in which it has acquired title, NASA has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the agency to require the Contractor, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Subcontractor, assignee, or exclusive licensee refuses such a request NASA has the right to grant such a license itself if the Federal agency determines that—

(1) Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

§ 1274.913 Patent Rights—Retention by the Contractor (Small Business) (XXX 1995)

(a) *Definitions.*

(1) *Contract,* as used in this clause, means any actual or proposed contract, cooperative agreement, agreement, under-standing, or other arrangement, and includes any assignment, substitution of parties, or subcontract executed or entered into thereunder.

(2) *Contracting Officer* means the contracting officer or grant officer executing this agreement on behalf of the Government.

(3) *Invention,* as used in this clause, means any invention or discovery which is or may be patentable or otherwise protectable under title 35 of the U.S.C.

(4) *Made,* as used in this clause, when used in relation to any invention means the conception or first actual reduction to practice such invention.

(5) *Nonprofit organization,* as used in this clause, means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(6) *Practical application,* as used in this clause, means to manufacture, in the case of a composition of product; to practice, in the case of a process or method, or to operate, in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(7) *Small business firm,* as used in this clause, means a small business concern as defined at Subpart 2 of Pub. L. 85–536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement and subcontracting at 13 CFR 121.3–8 and 13 CFR 121.3–12, respectively, will be used.

(8) *Subject invention,* as used in this clause, means any invention of the Subcontractor conceived or first actually reduced to practice in the performance of work under this contract.

(b) *Allocation of principal rights.* The Contractor may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Contractor retains title, the Federal Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) *Invention disclosure, election of title, and filing of patent application by Contractor.* (1) The Contractor will disclose subject invention to NASA within two months after the inventor discloses it in writing to Contractor personnel responsible for patent matters. This disclosure to the agency shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the

physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the agency, the Contractor will promptly notify the agency of the acceptance of any manuscript describing the invention for publication or of any sale or public use planned by the Contractor.

(2) The Contractor will elect in writing whether or not to retain title to any such invention by notifying NASA within two years of disclosure to the Federal agency. However, in any case where publication, on sale or public use has initiated the one-year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the agency to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Contractor will file its initial patent application on a subject invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The Contractor will file patent applications in additional countries or international patent offices within either 10 months of the corresponding initial patent application of six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure election, and filing under paragraphs (c)(1), (2), and (3) of this section may, at the discretion of the agency, be granted.

(d) *Conditions when the Government may obtain title.* The Contractor will convey to NASA, upon written request, title to any subject invention—

(1) If the Contractor fails to disclose or elect title to the subject invention within the times specified in paragraph (c) of this section, or elects not to retain title; provided that the agency may only request title within 60 days after learning of the failure of the Contractor to disclose or elect within the specified times.

(2) In those countries in which the Contractor fails to file patent applications within the times specified in paragraph (c) of this section; provided, however, that if the Contractor has filed a patent application in a country after the times specified in paragraph (c) of this section, but prior to its receipt of the written request of the Federal agency, the Contractor shall continue to retain title in that country.

(3) In any country in which the Contractor decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

(e) *Minimum rights to Contractor and protection of the Contractor right to file.* (1) The Contractor will retain a nonexclusive, royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the Contractor fails to disclose the invention within the times specified in paragraph (c) of this section. The Contractor's license extends to its domestic subsidiary and affiliates, if any, within the corporate structure of which the Contractor is a party and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of NASA, except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by NASA to the extent necessary to achieve expeditious practical application of subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR part 404 and agency licensing regulations (if any). This license will not be revoked in that field of use or the geographical areas in which the Subcontractor has achieved practical application and continues to make the benefits of the invention reasonable accessible to the public. The license in any foreign country may be revoked or modified at the discretion of NASA to the extent the Subcontractor, its licensees, or the domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license NASA will furnish the Contractor a written notice of its intention to revoke or modify the license, and the Contractor will be allowed 30 days (or such other time as may be authorized by NASA for good cause shown by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with applicable regulations in 37 CFR part 404 and NASA Reg 14 CFR subpart 1245.2, concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of the license.

(f) *Contractor action to protect the Government's interest.* (1) The Contractor agrees to execute or to have executed and promptly deliver to NASA all instruments necessary to:

(i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the Subcontractor elects to retain title, and,

(ii) convey title to the Federal agency when requested under paragraph (d) of this section to enable the Government to obtain patent protection throughout the world in that subject invention.

(2) The Contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor each subject invention made under contract in order that the Contractor can comply with the disclosure provisions of paragraph (c) of this section, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by paragraph (c)(1) of this section. The Contractor shall instruct such employees, through employee agreements or other suitable educational programs, on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Contractor will notify NASA of any decisions not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than 30 days before the expiration of the response period required by the relevant patent office.

(4) The Contractor agrees to include, within the specification of the United States patent application and any patent issuing thereon covering a subject invention the following statement, ''This invention was made with Government support under (identify the agreement) awarded by NASA. The Government has certain rights in the invention.''

(5) The Contractor shall provide the Contracting Officer the following:

(i) A listing every 12 months (or such longer period as the Contracting Officer may specify) from the date of the contract, of all subject inventions required to be disclosed during the period.

(ii) A final report prior to closeout of the contract listing all subject inventions or certifying that there were none.

(iii) Upon request, the filing date, serial number, and title, a copy of the patent application, and patent number and issue date for any subject invention in any country in which the contractor has applied for patents.

(iv) An irrevocable power to inspect and make copies of the patent application file, by the Government, when a Federal Government employee is a co-inventor.

(g) *Subcontracts.* (1) Unless otherwise authorized or directed by the Contracting Officer, the Contractor shall—

(i) Include this provision (PATENT RIGHTS—RETENTION BY THE CONTRACTOR (SMALL BUSINESS)), suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, or research work to be performed by a small business firm or domestic nonprofit organization.

(ii) Include in all other subcontracts, regardless of tier, for experimental, developmental, or research work the patent rights clause (PATENT RIGHTS—RETENTION BY THE CONTRACTOR (LARGE BUSINESS)).

(2) In the event of a refusal by a prospective subcontractor to accept such a clause the Contractor—

(i) Shall promptly submit a written notice to the Contracting Officer setting forth the subcontractor's reasons for such refusal and other pertinent information that may expedite disposition of the matter; and

(ii) Shall not proceed with such subcontract without the written authorization of the Contracting Officer.

(3) The Contractor shall promptly notify the Contracting Officer in writing upon the award of any subcontract at any tier containing a patent rights clause by identifying the subcontractor, the applicable patent rights clause, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Contracting Officer, the Contractor shall furnish a copy of such subcontract, and, no more frequently than annually, a listing of the subcontracts that have been awarded.

(4) The subcontractor will retain all rights provided for the Contractor in the clause under paragraph (g)(1)(i) or (g)(1)(ii) of this section, whichever is included in the subcontract, and the Contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(5) Notwithstanding paragraph (g)(4) of this section, and in recognition of the contractor's substantial contribution of funds, facilities and/or equipment to the work performed under this cooperative agreement, the contractor is authorized, subject to the rights of NASA set forth elsewhere in this clause, to:

(i) Acquire by negotiation and mutual agreement rights to a subcontractor's subject inventions as the contractor may deem necessary to obtaining and maintaining of such private support; and

(ii) Request, in the event of inability to reach agreement pursuant to paragraph (g)(5)(i) of this section that NASA invoke exceptional circumstances as necessary pursuant to 37 CFR 401.3(a)(2) if the prospective subcontractor is a small business firm or organization, or for all other organizations, request that such rights for the contractor be included as an additional reservation in a waiver granted pursuant to 14 CFR part 1245, subpart 1. Any such requests to NASA should be prepared in consideration of the following guidance and submitted to the contract officer.

(A) *Exceptional circumstances:* A request that NASA make an ''exceptional circumstances'' determination pursuant to 37 CFR 401.3(a)(2) must state the scope of rights sought by the contractor pursuant to such determination; identify the proposed subcontractor and the work to be performed under the subcontract; and state the need for the determination.

(B) *Waiver petition:* The subcontractor should be advised that unless it requests a waiver of title pursuant to the NASA Patent Waiver Regulations (14 CFR part 1245, subpart 1), NASA will acquire title to the subject invention (42 U.S.C. 2457, as amended, Sec. 305). If a waiver is not requested or granted, the contractor may request a license from NASA (see licensing of NASA inventions, 14 CFR part 1245, subpart 2). A subcontractor requesting a waiver must follow the procedures set forth in the REQUESTS FOR WAIVER OF RIGHTS—LARGE BUSINESS provision.

(h) *Reporting on utilization of subject inventions.* The Contractor agrees to submit, on request, periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as the agency may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by the agency in connection with any march-in proceeding undertaken by the agency in accordance with paragraph (i) of this section. As required by 35 U.S.C. 202(c)(5), the agency agrees it will not disclose such information to persons outside the Government without permission of the Contractor.

(i) *Preference for United States manufacture.* The Contractor agrees that any products embodying subject inventions or produced through the use of subject inventions shall be manufactured substantially in the United States. However, in individual cases, the requirement to manufacture substantially in the United States may be waived by NASA upon a showing by the Contractor that under the circumstances domestic manufacture is not commercially feasible.

(j) *March-in rights.* The Contractor agrees that, with respect to any subject invention in which it has acquired title, NASA has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the agency to require the Contractor, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Subcontractor, assignee, or exclusive licensee refuses such a request NASA has the right to grant such a license itself if the Federal agency determines that—

(1) Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this section has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject

invention in the United States is in breach of such agreement.

(k) *Special provisions for contracts with nonprofit organizations.* If the Contractor is a nonprofit organization, it agrees that—

(1) Rights to a subject invention in the United States may not be assigned without the approval of NASA, except where such assignment is made to an organization which has one of its primary functions the management of inventions; *provided,* that such assignee will be subject to the same provisions as the Contractor;

(2) The Contractor will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when NASA deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;

(3) The balance of any royalties or income earned by the Contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions will be utilized for the support of scientific research or education; and

(4) It will make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business firms, and that it will give a preference to a small business firm when licensing a subject invention if the Contractor determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; *provided* that the Contractor is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the contractor. However, the Contractor agrees that the Secretary of Commerce may review the Contractor's licensing program and decisions regarding small business applicants, and the Contractor will negotiate changes to its licensing policies, procedures, or practices with the Secretary of Commerce when the Secretary's review discloses that the Contractor could take reasonable steps to more effectively implement the requirements of this paragraph.

(l) A copy of all submissions or requests required by this clause, plus a copy of any reports, manuscripts, publications, or similar material bearing on patent matters, shall be sent to the installation Patent Counsel in addition to any other submission requirements in the cooperative agreement. If any reports contain information describing a ''subject invention'' for which the contractor has elected or may elect title, NASA will use reasonable efforts to delay public release by NASA or publication by NASA in a NASA technical series, in order for a patent application to be filed, provided that the Contractor identify the information and the ''subject invention'' to which it relates at the time of submittal. If required by the Contracting Officer, the Contractor shall provide the filing date, serial number and title, a copy of the patent application, and a patent number and issue date for any ''subject invention'' in any country in which the Contractor has applied for patents.

§ 1274.914 Requests for waiver of rights—large business (XXX 1995).

(a) In accordance with the NASA Patent Waiver Regulations, 14 CFR part 1245, subpart 1, waiver of rights to any or all inventions made or that may be made under a NASA contract or subcontract with other than a small business firm or a domestic nonprofit organization may be requested at different time periods. Advance waiver of rights to any or all inventions that may be made under a contract or subcontract may be requested prior to the execution of the contract or subcontract, or within 30 days after execution by the selected contractor. In addition, waiver of rights to an identified invention made and reported under a contract or subcontract may be requested, even though a request for an advance waiver was not made or, if made, was not granted.

(b) Each request for waiver of rights shall be by petition to the Administrator and shall include an identification of the petitioner; place of business and address; if petitioner is represented by counsel, the name, address, and telephone number of the counsel; the signature of the petitioner or authorized representative; and the date of signature. No specific forms need be used, but the request should contain a positive statement that waiver of rights is being requested under the NASA Patent Waiver Regulations; a clear indication of whether the request is for an advance waiver or for a waiver of rights for an individual identified invention; whether foreign rights are also requested and, if so, the countries, and a citation of the specific Subpart or Subparts of the regulations under which such rights are requested; and the name, address, and telephone number of the party with whom to communicate when the request is acted upon. Requests for advance waiver of rights should, preferably, be included with the proposal, but in any event in advance of negotiations.

(c) Petitions for advance waiver, prior to contract execution, must be submitted to the Contracting Officer. All other petitions will be submitted to the Patent Representative designated in the contract.

(d) Petitions submitted with proposals selected for negotiation of a contract will be forwarded by the Contracting Officer to the installation Patent Counsel for processing and then to the Inventions and Contributions Board. The Board will consider these petitions and where the Board makes the findings to support the waiver, the Board will recommend to the Administrator that waiver be granted, and will notify the petitioner and the Contracting Officer of the Administrator's determination. The Contracting Officer will be informed by the Board whenever there is insufficient time or information or other reasons to permit a decision to be made without unduly delaying the execution of the contract. In the latter event, the petitioner will be so notified by the Contracting Officer. All other petitions will be processed by installation Patent Counsel and forwarded to the Board. The Board shall notify the petitioner of its action and if waiver is granted, the conditions, reservations, and obligations thereof will be included in the Instrument of Waiver. Whenever the Board notifies a petitioner of a recommendation adverse to, or different from, the waiver requested, the petitioner may request reconsideration under procedures set forth in the Regulations.

§ 1274.915 Restrictions on sale or transfer of technology to foreign firms or institutions (XXX 1995).

(a) The parties agree that access to technology developments under this Agreement by foreign firms or institutions must be carefully controlled. For purposes of this clause, a transfer includes a sale of the company, or sales or licensing of the technology. Transfers do not include:

(1) Sales of products or components,

(2) Licenses of software or documentation related to sales of products or components, or

(3) Transfers to foreign subsidiaries of the Recipient for purposes related to this Agreement.

(b) The Recipient shall provide timely notice to the Contracting Officer in writing of any proposed transfer of technology developed under this Agreement. If NASA determines that the transfer may have adverse consequences

to the national security interests of the United States, or to the establishment of a robust United States industry, NASA and the Recipient shall jointly endeavor to find alternatives to the proposed transfer which obviate or mitigate potential adverse consequences of the transfer.

§ 1274.916 Liability and risk of loss (XXX 1995).

(a) With regard to activities undertaken pursuant to this agreement, neither party shall make any claim against the other, employees of the other, the other's related entities (e.g., contractors, subcontractors, etc.), or employees of the other's related entities for any injury to or death of its own employees or employees of its related entities, or for damage to or loss of its own property or that of its related entities, whether such injury, death, damage or loss arises through negligence or otherwise, except in the case of willful misconduct.

(b) To the extent that a risk of damage or loss is not dealt with expressly in this agreement, each party's liability to the other party arising out of this Agreement, whether or not arising as a result of an alleged breach of this Agreement, shall be limited to direct damages only, and shall not include any loss of revenue or profits or other indirect or consequential damages.

§ 1274.917 Additional funds (XXX 1995).

Pursuant to this agreement, NASA is providing a fixed amount of funding for activities to be undertaken under the terms of this cooperative agreement. NASA is under no obligation to provide additional funds. Under no circumstances shall the Recipient undertake any action which could be construed to imply an increased commitment on the part of NASA under this cooperative agreement.

§ 1274.918 Incremental funding (XXX 1995).

(a) Of the award amount indicated on the cover page of this agreement, only the obligated amount indicated on the cover page of this agreement is available for payment. NASA anticipates making additional allotments of funds as required,

(b) These funds will be obligated as appropriated funds become available without any action required of the Recipient. NASA is not obligated to make payments in excess of the total funds obligated.

§ 1274.919 Cost principles and accounting standards (XXX 1995).

The expenditure of Government funds by the Recipient and the allowability of costs recognized as a resource contribution by the Recipient (See clause entitled ''Resource Sharing Requirements'') shall be governed by the FAR cost principles, 48 CFR part 31. (If the Recipient is a consortium which includes non-commercial firm members, cost allowability for those members will be determined as follows: Allowability of costs incurred by State, local or federally-recognized Indian tribal governments is determined in accordance with the provisions of OMB Circular A–87, ''Cost Principles for State and Local Governments.'' The allowability of costs incurred by non-profit organizations is determined in accordance with the provisions of OMB Circular A–122, ''Cost Principles for Non-Profit Organizations.'' The allowability of costs incurred by institutions of higher education is determined in accordance with the provisions of OMB Circular A–21, ''Cost Principles for Educational Institutions.'' The allowability of costs incurred by hospitals is determined in accordance with the provisions of Appendix E of 45 CFR part 74, ''Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals.'') Recipient's method for accounting for the expenditure of funds must be consistent with Generally Accepted Accounting Principles.

§ 1274.920 Responsibilities of the NASA technical officer (XXX 1995).

(a) The NASA Grant Administrator and Technical Officer for this cooperative agreement are identified on the cooperative agreement cover sheet.

(b) The Grant Specialist shall serve as NASA's authorized representative for the administrative elements of all work to be performed under the agreement.

(c) The Technical Officer shall have the authority to issue written Technical Advice which suggests redirecting the project work (e.g., by changing the emphasis among different tasks), or pursuing specific lines of inquiry likely to assist in accomplishing the effort. The Technical Officer shall have the authority to approve or disapprove those technical reports, plans, and other technical information the Recipient is required to submit to NASA for approval. The Technical Officer is not authorized to issue and the Recipient shall not follow any Technical Advice which constitutes work which is not contemplated under this agreement; which in any manner causes an increase or decrease in the resource sharing or in the time required for performance of the project; which has the effect of changing any of the terms or conditions of the cooperative agreement; or which interferes with the Recipient's right to perform the project in accordance with the terms and conditions of this cooperative agreement.

§ 1274.921 Publications and reports: Non-proprietary research results (XXX 1995)

(a) NASA encourages the widest practicable dissemination of research results at all times during the course of the investigation consistent with the other terms of this agreement.

(b) All information disseminated as a result of the cooperative agreement, shall contain a statement which acknowledges NASA's support and identifies the cooperative agreement by number.

(c) Prior approval by the NASA Technical Officer is required only where the Recipient requests that the results of the research be published in a NASA scientific or technical publication. Two copies of each draft publication shall accompany the approval request.

(d) Reports shall contain full bibliographic references, abstracts of publications and lists of all other media in which the research was discussed. The Recipient shall submit the following technical reports:

(1) A performance report for every year of the cooperative agreement (except the final year). Each report is due 60 days before the anniversary date of the cooperative agreement and shall describe research accomplished during the report period.

(2) A summary of research, which is due by 90 days after the expiration date of the cooperative agreement, regardless of whether or not support is continued under another cooperative agreement. This report is intended to summarize the entire research accomplished during the duration of the cooperative agreement.

(e) Performance reports and summaries of research shall display the following on the first page:

(1) Title of the cooperative agreement.

(2) Type of report.

(3) Period covered by the report.

(4) Name and address of the Recipient's organization.

(5) Cooperative agreement number.

(f) An original and two copies, one of which shall be of suitable quality to permit micro-reproduction, shall be sent as follows:

(1) Original—Grant Officer.

(2) Copy—Technical Officer

(3) Micro-reproducible copy—NASA Center for Aerospace Information (CASI), Attn: Accessioning Department, 800 Elkridge Landing Road, Linthicum Heights, Maryland 21090–2934.

§ 1274.922 Suspension or revocation (XXX 1995).

(a) This cooperative agreement may be suspended by NASA or revoked in whole or in part by the Recipient or by NASA after consultation with the other party. NASA may revoke the agreement, for example, if the Recipient is not making anticipated technical progress, if the Recipient materially fails to comply with the terms of the agreement, or if appropriated funds are not available to support the program.

(b) Suspension of the cooperative agreement by NASA may occur when the Recipient has failed to comply with the terms of the cooperative agreement. Upon reasonable notice to the Recipient, NASA may temporarily suspend the cooperative agreement and withhold further payments, pending corrective action by the Recipient or a decision by NASA to revoke the cooperative agreement.

(c) In the event of revocation, the Recipient shall not be entitled to additional funds or payments except as may be required by the Recipient to meet commitments which had in the judgment of NASA become firm prior to the effective date of revocation and are otherwise appropriate. In no event, shall these additional funds or payments exceed the amount of the next payable milestone billing amount.

§ 1274.923 Equipment and other property (XXX 1995).

(a) NASA cooperative agreements permit acquisition of technical property required for the conduct of research. Acquisition of property costing in excess of $5,000 and not included in the approved proposal budget requires the prior approval of the Grant Officer unless the item is merely a different model of an item shown in the approved proposal budget.

(b) Recipients may not purchase, as a direct cost to the cooperative agreement, items of non-technical property, examples of which include but are not limited to office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, motor vehicles, and automatic data processing equipment. If the Recipient requests an exception, the Recipient shall submit a written request for Grant Officer approval, prior to purchase by the Recipient, stating why the Recipient cannot charge the property to indirect costs.

(c) Under no circumstances shall cooperative agreement funds be used to acquire land or any interest therein, to acquire or construct facilities (as defined in 48 CFR (FAR) 45.301), or to procure passenger carrying vehicles.

(d) The government shall have title to equipment and other personal property acquired with government funds. Such property shall be disposed of pursuant to 48 CFR (FAR) 45.603. The Recipient shall have title to equipment and other personal property acquired with Recipient funds. Such property shall remain with the Recipient at the conclusion of the cooperative agreement.

(e) Title to Government furnished equipment (including equipment, title to which has been transferred to the Government pursuant to 14 CFR 1260.408(d) prior to completion of the work) will remain with the Government.

(f) The Recipient shall establish and maintain property management standards for nonexpendable personal property and otherwise manage such property as set forth in 14 CFR 1260.507.

(g) Annually by October 31, the Recipient shall submit 2 copies of an inventory report which lists all Government furnished equipment and equipment acquired with Government funds in their custody as of September 30. The Recipient shall submit 2 copies of a final inventory report by 60 days after the expiration date of the cooperative agreement. The final inventory report shall contain a list of all Recipient acquired equipment and a list of Government furnished equipment. Annual and final inventory reports shall reflect the elements required in 14 CFR 1260.507(a)(1)(i), (ii), (iii), (v) through (viii) and beginning and ending dollar value totals for the reporting period and be submitted to the grant officer. When Government furnished equipment is no longer needed, the Recipient shall notify the Contracting Officer, who will provide disposition instructions.

§ 1274.924 Civil rights (XXX 1995).

Work on NASA cooperative agreements is subject to the provisions of Title VI of the Civil Rights Act of 1964 (Pub. L. 88–352; 42 U.S.C. 2000d–l), Title IX of the Education Amendments of 1972 (20 U.S.C. 1680 *et seq.*), section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and the NASA implementing regulations (14 CFR parts 1250, 1251, and 1252).

§ 1274.925 Subcontracts (XXX 1995).

(a) NASA Grant Officer consent is required for subcontracts over $100,000, if not accepted by NASA in the original proposal, and may be requested through the Contract Administrator. The Recipient shall provide the following information to the Contract Administrator for forwarding to the Grant Officer:

(1) A copy of the proposed subcontract.

(2) Basis for subcontractor selection.

(3) Justification for lack of competition when competitive bids or offers are not obtained.

(4) Basis for award cost or award price.

(b) The Recipient shall utilize small business concerns, small disadvantaged business concerns, Historically Black Colleges and Universities, minority educational institutions, and women-owned small business concerns as subcontractors to the maximum extent practicable. The Federal Acquisition Streamlining Act (FASA) requires that NASA obligate in each fiscal year five percent (5%) of the total value of all prime and subcontract awards to small disadvantaged businesses. FASA also established that NASA would participate in the Government-wide objective to award at least five percent (5%) of the total value of all prime and subcontract awards to small businesses owned and controlled by women.

§ 1274.926 Clean Air-Water Pollution Control Acts (XXX 1995).

If this cooperative agreement or supplement thereto is in excess of $100,000, the Recipient agrees to notify the Contract Administrator promptly of the receipt, whether prior or subsequent to the Recipient's acceptance of this cooperative agreement, of any communication from the Director, Office of Federal Activities, Environmental Protection Agency (EPA), indicating that a facility to be utilized under or in the performance of this cooperative agreement or any subcontract thereunder is under consideration to be listed on the EPA ''List of Violating Facilities'' published pursuant to 40 CFR 15.20. By acceptance of a cooperative agreement in excess of $100,000, the Recipient:

(a) Stipulates that any facility to be utilized thereunder is not listed on the EPA ''List of Violating Facilities'' as of the date of acceptance;

(b) agrees to comply with all requirements of section 114 of the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.* as amended by Pub. L. 91–604) and 308 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.* as amended by Pub. L. 92–500) relating to inspection, monitoring, entry, reports and information, and all other requirements specified in the aforementioned sections, as well as all regulations and guidelines issued thereunder after award of and

applicable to the cooperative agreement; and

(c) agrees to include the criteria and requirements of this clause in every subcontract hereunder in excess of $100,000, and to take such action as the Contract Administrator may direct to enforce such criteria and requirements.

§ 1274.927 Debarment and suspension and drug-free workplace (XXX 1995).

NASA cooperative agreements are subject to the provisions of 14 CFR part 1265, Government-wide Debarment and Suspension (Nonprocurement) and Government-wide requirements for Drug-Free Workplace, unless excepted by 14 CFR 1265.110 or 1265.610.

§ 1274.928 Foreign national employee investigative requirements (XXX 1995).

(a) The Recipient shall submit a properly executed Name Check Request (NASA Form 531) and a completed applicant fingerprint card (Federal Bureau of Investigation Card FD–258) for each foreign national employee requiring access to a NASA Installation. These documents shall be submitted to the Installation's Security Office at least 75 days prior to the estimated duty date. The NASA Installation Security Office will request a National Agency Check (NAC) for foreign national employees requiring access to NASA facilities. The NASA Form 531 and fingerprint card may be obtained from the NASA Installation Security Office.

(b) The Installation Security Office will request from NASA Headquarters, International Relations Division (Code IR), approval for each foreign national's access to the Installation prior to providing access to the Installation. If the access approval is obtained from NASA Headquarters prior to completion of the NAC and performance of the cooperative agreement requires a foreign national to be given access immediately, the Technical Officer may submit an escort request to the Installation's Chief of Security.

§ 1274.929 Restrictions on lobbying (XXX 1995).

This award is subject to the provisions of 14 CFR part 1271 ''New Restrictions on Lobbying.''

§ 1274.930 Travel and transportation (XXX 1995).

(a) For travel funded by the government under this agreement, section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 App. U.S.C. 1517) (Fly America Act) requires the Recipient to use U.S.-flag air carriers for international air transportation of personnel and property to the extent that service by those carriers is available.

(b) Department of Transportation regulations, 49 CFR part 173, govern Recipient shipment of hazardous materials and other items.

§ 1274.931 Officials not to benefit (XXX 1995).

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this agreement, or to any benefit arising from it. However, this clause does not apply to this agreement to the extent that this agreement is made with a corporation for the corporation's general benefit.

§ 1274.932 Electronic funds transfer payment methods (XXX 1995).

Payments under this cooperative agreement will be made by the Government either by check or electronic funds transfer (through the Treasury Fedline Payment System (FEDLINE) or the Automated Clearing House (ACH)), at the option of the Government. After award, but no later than 14 days before an invoice is submitted, the Recipient shall designate a financial institution for receipt of electronic funds transfer payments, and shall submit this designation to the Grant Officer or other Government official, as directed.

(a) For payment through FEDLINE, the Recipient shall provide the following information:

(1) Name, address, and telegraphic abbreviation of the financial institution receiving payment.

(2) The American Bankers Association 9-digit identifying number for wire transfers of the financing institution receiving payment if the institution has access to the Federal Reserve Communication System.

(3) Payee's account number at the financial institution where funds are to be transferred.

(4) If the financial institution does not have access to the Federal Reserve Communications System, name, address, and telegraphic abbreviation of the correspondent financial institution through which the financial institution receiving payment obtains wire transfer activity. Provide the telegraphic abbreviation and American Bankers Association identifying number for the correspondent institution.

(b) For payment through ACH, the Recipient shall provide the following information:

(1) Routing transit number of the financial institution receiving payment (same as American Bankers Association identifying number used for FEDLINE).

(2) Number of account to which funds are to be deposited.

(3) Type of depositor account (''C'' for checking, ''S'' for savings).

(4) If the Recipient is a new enrollee to the ACH system, a ''Payment Information Form,'' SF 3881, must be completed before payment can be processed.

(c) In the event the Recipient, during the performance of this cooperative agreement, elects to designate a different financial institution for the receipt of any payment made using electronic funds transfer procedures, notification of such change and the required information specified above must be received by the appropriate Government official 30 days prior to the date such change is to become effective.

(d) The documents furnishing the information required in this clause must be dated and contain the signature, title, and telephone number of the Recipient official authorized to provide it, as well as the Recipient's name and contract number.

(e) Failure to properly designate a financial institution or to provide appropriate payee bank account information may delay payments of amounts otherwise properly due.

§ 1274.933 Retention and examination of records (XXX 1995).

Financial records, supporting documents, statistical records, and all other records (or microfilm copies) pertinent to this cooperative agreement shall be retained for a period of 3 years, except that if any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved, and records for nonexpendable property acquired with cooperative agreement funds shall be retained for 3 years after its final disposition. The retention period starts from the date of the submission of the final invoice. The Administrator of NASA and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of the Recipient and of subcontractors to make audits, examinations, excerpts, and transcripts. All provisions of this clause shall apply to any subcontractor performing substantive work under this cooperative agreement.

Appendix A—Contract Provisions

All contracts awarded by a Recipient, including small purchases, shall contain the following provisions if applicable:

1. Equal Employment Opportunity—All contracts shall contain a provision requiring compliance with E.O. 11246,

''Equal Employment Opportunity,'' as amended by E.O. 11375, ''Amending Executive Order 11246 Relating to Equal Employment Opportunity,'' and as supplemented by regulations at 41 CFR part 60, ''Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.''

2. Copeland ''Anti-Kickback'' Act (18 U.S.C. 874 and 40 U.S.C. 276c)—All contracts and subgrants in excess of $2,000 for construction or repair awarded by Recipients and subrecipients shall include a provision for compliance with the Copeland ''Anti-Kickback'' Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, ''Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States''). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The Recipient shall report all suspected or reported violations to NASA.

3. Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333)—Where applicable, all contracts awarded by Recipients in excess of $2,000 for construction contracts and in excess of $2,500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Subsection 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Subsection 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

4. Rights to Inventions Made Under a Contract or Agreement—Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the Recipient in any resulting invention in accordance with 37 CFR part 401, ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,'' and any implementing regulations issued by the awarding agency.

5. Clean Air Act (42 U.S.C. 7401 *et seq.*) and the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*), as amended—Contracts and subgrants of amounts in excess of $100,000 shall contain a provision that requires the Recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 *et seq.*). Violations shall be reported to NASA and the Regional Office of the Environmental Protection Agency (EPA).

6. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Recipient.

7. Debarment and Suspension (E.O.'s 12549 and 12689)—No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, ''Debarment and Suspension.'' This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

Appendix B—Reports

1. Individual procurement action report (NASA Form 507).

The grant officer is responsible for submitting NASA Form 507 for all cooperative agreement actions.

2. Inventory listings of equipment.

As provided in paragraph (g) of § 1274.923, an annual inventory listing of Government furnished equipment will be submitted by October 31 of each year. Upon receipt of each annual inventory listing, the administrative grant officer will provide 1 copy to the NASA installation financial management officer and 1 copy to the NASA installation industrial property officer. A final inventory report of Government furnished equipment and grantee acquired equipment is due 60 days after the end of the cooperative agreement, in accordance with subpart I. Upon receipt of the final inventory report, the administrative grant officer will provide 1 copy to the technical officer and 1 copy to the NASA Installation industrial property officer.

3. Disclosure of lobbying activities (SFLLL).

(a) Grant officers shall provide one copy of each SF LLL furnished under 14 CFR 1271.110 to the Procurement Officer for transmittal to the Director, Analysis Division (Code HC).

(b) Suspected violations of the statutory prohibitions implemented by 14 CFR part 1271 shall be reported to the Director, Contract Management Division (Code HK).

Appendix C—Listing of Exhibits

Exhibit A—Format for Cooperative Agreement

National Aeronautics and Space Administration Cooperative Agreement

1. To:
2. Cooperative Agreement No.:
3. Supplement No.:
4. Effective Date:
5. Expiration Date:
6. For Research Entitled:
7. Award History
   Previous Amount:
   This Action:
   Total to Date:

Funding History
   Previous Obligation:
   This Action:
   Total to Date:

8. NASA Procurement Request No.:
   PPC Code:
   Appropriation:
9. Points of Contact:
   Technical Officer:
   Grant Administrator:
   Payment:

United States of America

Recipient

Grants Officer
Date:

Authorized Representative
Date:

[FR Doc. 95–15536 Filed 6–26–95; 8:45 am]
BILLING CODE 7510–01–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Chapter II

Meetings of the Indian Gas Valuation Negotiated Rulemaking Committee

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of meetings.

SUMMARY: The Secretary of the Department of the Interior (Department) has established an Indian Gas Valuation Negotiated Rulemaking Committee (Committee) to develop specific recommendations with respect to Indian gas valuation under its responsibilities imposed by the Federal Oil and Gas Royalty Management Act of 1982, 30 U.S.C. 1701 *et seq.* (FOGRMA). The Department has determined that the establishment of this Committee is in the public interest and will assist the Agency in performing its duties under FOGRMA.

DATES: The Committee will have meetings on the dates and at the times shown below:

Wednesday, July 12, 1995—9:30 a.m. to 5:00 p.m.
Thursday, July 13, 1995—8:00 a.m. to 5:00 p.m.
Wednesday, August 9, 1995—9:30 a.m. to 5:00 p.m.
Thursday, August 10, 1995—8:00 a.m. to 5:00 p.m.

ADDRESSES: The July meetings will be held in the 25th floor board room at Council of Energy Resource Tribes (CERT), 1999 Broadway, Denver, Colorado 80203.

The August meetings will be held in the 45th floor meeting room at Holme Roberts & Owen LLC, 1700 Lincoln, Suite 4100, Denver, Colorado 80203.

Written statements may be submitted to Mr. Donald T. Sant, Deputy Associate Director for Valuation and Operations, Minerals Management Service, Royalty Management Program, P.O. Box 25165, MS–3100, Denver, CO 80225–0165.

FOR FURTHER INFORMATION CONTACT: Mr. Donald T. Sant, Deputy Associate Director for Valuation and Operations, Minerals Management Service, Royalty Management Program, P.O. Box 25165, MS–3100, Denver, Colorado, 80225–0165, telephone number (303) 231–3899, fax number (303) 231–3194. At Holme Roberts & Owen LLC, you may contact Marla Williams at (303) 861–7000 or Lynn Malloy (303) 866–0482. At CERT you may contact (303) 297–2378.

SUPPLEMENTARY INFORMATION:

The location and dates of future meetings will be published in the **Federal Register**.

The meetings will be open to the public without advanced registration. Public attendance may be limited to the space available. Members of the public may make statements during the meetings, to the extent time permits, and file written statements with the Committee for its consideration.

Written statements should be submitted to the MMS address listed above. Minutes of Committee meetings will be available for public inspection and copying 10 days following each meeting at the Denver Federal Center, Bldg. 85, Denver, CO 80225. In addition, the materials received to date during the input sessions are available for inspection and copying at the same address.

Dated: June 20, 1995.

James W. Shaw

Associate Director for Royalty Management

[FR Doc. 95–15770 Filed 6–26–95; 8:45 am]
BILLING CODE 4310–MR–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 140 through 147

[CGD 95–016]

Outer Continental Shelf Activities

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: The Coast Guard is considering amending its regulations on Outer Continental Shelf (OCS) activities. Possible amendments may include improvements to the personnel safety regulations for fixed OCS facilities, new regulations governing the operation of mobile inland drilling units (MIDUs) on the OCS, and an alignment of the requirements for foreign vessels engaged in OCS activities with those for U.S. vessels similarly engaged. The Coast Guard requests comments on these as well as other subjects related to OCS activities.

DATES: Comments must be received on or before September 25, 1995.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 95–016), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

The Executive Secretary maintains the public docket for this project. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. James M. Magill, Offshore Activities Branch, (202) 267–2307.

SUPPLEMENTARY INFORMATION:

Submission of Comments

Persons submitting comments should include their names and addresses, identify this project (CGD 95–016), and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard plans no public meeting. Persons may request a public meeting by writing to the Marine Safety Council at the address under **ADDRESSES.** The request should include the reasons why a meeting would be beneficial. If it determines that the opportunity for oral presentations will aid this project, the Coast Guard will hold a public meeting at a time and place announced by a later notice in the **Federal Register.**

Discussion of Project

The Coast Guard is considering revising its regulations on Outer Continental Shelf (OCS) activities (33 CFR parts 140 through 147) to address new developments in the offshore industry; to implement, more fully, existing legislation and interagency agreements; and to respond to recommendations from previous requests for comments and from casualty investigations. The major areas under consideration include workplace safety and health, design and equipment, lifesaving equipment, fire protection, and operations, particularly on fixed OCS facilities. One concept

under review is the alignment of the requirements applicable to foreign vessels engaged in OCS activities with those applicable to U.S. vessels similarly engaged. Also, the Coast Guard is considering regulations for mobile inland drilling units (MIDUs). Under current Coast Guard policy, MIDUs are allowed to operate on the OCS out to a defined boundary line if they meet requirements for lifesaving, firefighting, and operations similar to those for fixed OCS facilities.

Comments are requested on these and other subjects related to safety on the OCS. After review of the comments, the Coast Guard will determine whether to go forward with this project. If the Coast Guard decides to go forward, it will publish an NPRM in a later issue of the **Federal Register** for review and comment by the public.

Dated: June 15, 1995.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 95–15758 Filed 6–26–95; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[I.D. 061995B]

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Authorization for Commercial Fisheries; Proposed List of Fisheries; Hearings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearings; request for comments.

SUMMARY: NMFS is announcing dates and locations for nine public hearings that will address the proposed rule to implement the new regime under the Marine Mammal Protection Act to govern the taking of marine mammals incidental to commercial fishing operations and the proposed list of fisheries (LOF) included in the proposed rule.

DATES: Written comments on the proposed rule and the interactions between commercial fisheries and ESA-listed stocks must be submitted by July 31, 1995. Written comments on the proposed list of fisheries will be accepted until September 14, 1995. Public hearings on all aspects of the proposed rule will be held in June and July. See **SUPPLEMENTARY INFORMATION** for specific dates and times of the hearings.

ADDRESSES: Written comments should be sent to, and copies of the proposed rule are available from, Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910 (FAX: 301–713–0376). Copies of the environmental assessment are available from the above address or by accessing NMFS ''Home Page'' on the World Wide Web at http://kingfish.ssp.nmfs.gov:80/home-page.html. Public hearings will be held in Alaska, California, Maryland, Massachusetts, New Jersey, New York, North Carolina, and Washington. See **SUPPLEMENTARY INFORMATION** for dates and locations of the hearings.

FOR FURTHER INFORMATION CONTACT: Margot Bohan, Office of Protected Resources, 301–713–2322; Dan Morris, Northeast Region, 508–281–9388; Jeff Brown, Southeast Region, 813–570–5301; Jim Lecky, Southwest Region, 310–980–4015; Brent Norberg, Northwest Region, 206–526–6140; Bridget Mansfield, Alaska Region, 907–586–7235.

SUPPLEMENTARY INFORMATION: On June 16, 1995, NMFS issued a proposed rule (60 FR 31666) to establish a new regime for the taking of marine mammals incidental to commercial fishing operations, pursuant to section 118 of the MMPA. Among other things, issues addressed in the proposed rule include: The authorization process for the incidental take of species and stocks of marine mammals by vessels engaged in commercial fishing, the issuance of a proposed LOF categorized according to frequency of incidental serious injury and mortality of marine mammals, new classification criteria for the categorization of commercial fisheries based on level of take relative to potential biological removal, the new requirements for commercial fishers to report any marine mammal incidental injury and/or mortality within 48 hours of the end of a fishing trip, and the definition of zero mortality rate goal.

The public will have an opportunity to provide oral or written testimony at the public hearings. NMFS requests that persons planning to speak at the hearings provide a written copy of their testimony to NMFS at the hearing. These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the appropriate regional contact (see **FOR FURTHER INFORMATION CONTACT**).

The hearings on the proposed rule and the proposed LOF will be held as follows:

1. Wednesday, June 28, 1995, 6:00 p.m. to 9:00 p.m.—King's Grant Inn, Route 128 at Trask Lane, Danvers, MA 01923;

2. Thursday, July 6, 1995, 6:30 p.m. to 9:30 p.m.—Forsythe National Wildlife Refuge Auditorium, Gray Creek Road (off Route 9), Oceanville, NJ 08230;

3. Monday, July 10, 1995, 3:00 p.m. to 5:00 p.m.—1325 East-West Highway, Bldg. SSMC2, Rm. 2358, Silver Spring, MD 20910;

4. Wednesday, July 12, 1995, 6:30 p.m. to 9:30 p.m.—Carousel Hotel and Resort, 118th Street and Coastal Highway, Ocean City, MD 21842;

5. Wednesday, July 12, 1995, 1:00 p.m. to 4:00 p.m.—Renaissance Hotel, 111 East Ocean Boulevard, Long Beach, CA 90802;

6. Wednesday, July 12, 1995, 7:30 p.m. to 10:00 p.m.—Holiday Inn, 3845 Veteran's Highway, Ronkonkoma, NY 11779;

7. Tuesday, July 18, 1995, 9:00 a.m. to 12 noon—Federal Building, Tlingit Room (1st floor), 222 West 7th Avenue, Anchorage, AK 99513;

8. Wednesday, July 19, 1995, 7:00 p.m. to 10:00 p.m., Duke University Marine Lab Auditorium, Pivers Island Rd., Beaufort, NC 28516; and

9. Wednesday, July 19, 1995, 10:00 a.m. to 12:00 p.m., 7600 Sand Point Way, NE., Building 9 Auditorium, Seattle, WA 98115.

Dated: June 20, 1995.

Patricia Montanio,

Acting Office Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–15682 Filed 6–22–95; 12:40 pm]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 60, No. 123

Tuesday, June 27, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Access Board; Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has scheduled its regular business meetings to take place in Washington, DC on Tuesday and Wednesday, July 11–12, 1995 at the times and location noted below.

DATES: The schedule of events is as follows:

Tuesday, July 11, 1995

9:00–12 Noon Vision Statement Work Group.
1:00–5:30 pm Rulemaking Priorities and Strategy Work Group (closed meeting).

Wednesday, July 12, 1995

10:00–11:30 am Technical Programs Committee.
1:30–3:30 pm Board Meeting.

ADDRESSES: The meetings will be held at: Marriott at Metro Center, 775 12th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Lawrence W. Roffee, Executive Director, (202) 272–5434 ext. 714 (voice) and (202) 272–5449 (TTY).

SUPPLEMENTARY INFORMATION: At the Board meeting, the Access Board will consider the following agenda items:

- Approval of the Minutes of the May 12, 1995 Board Meeting.
- Executive Director's Report.
- Vision Statement Work Group Status Report.
- Report on Rulemaking Priorities and Strategy Work Group.
- Federal Facilities Rulemaking—Objective, Strategy, and Priority.
- Rulemaking Plan.
- Fiscal Years 1994 and 1995 Research Projects.
- Fiscal Year 1996 Research Planning.
- Removal of Obsolete Rule on Employee Responsibilities and Conduct.

Some meetings or items may be closed to the public as indicated above. All meetings are accessible to persons with disabilities. Sign language interpreters and an assistive listening system are available at all meetings.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 95–15698 Filed 6–26–95; 8:45 am]

BILLING CODE 8150–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 751]

Expansion of Foreign-Trade Zone 9, Oahu, Hawaii

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the Department of Business, Economic Development & Tourism of the State of Hawaii, grantee of Foreign-Trade Zone 9, for authority to expand its general-purpose zone to include three sites on the island of Oahu, Hawaii, was filed by the Board on August 24, 1994 (FTZ Docket 28–94, 59 FR 46390, 9/8/94); and

Whereas, notice inviting public comment was given in **Federal Register** and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board has found that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 9 is approved, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 19th day of June 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest: John J. Da Ponte, Jr., Executive Secretary.

[FR Doc. 95–15609 Filed 6–26–95; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 32–95]

Foreign-Trade Zone 49, Newark, NJ; Proposed Foreign-Trade Subzone; Bayway Refining Company (Oil Refinery), Linden, NJ

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port Authority of New York and New Jersey, grantee of FTZ 49, requesting special-purpose subzone status for the oil refinery complex of Bayway Refining Company (Bayway) (subsidiary of Tosco Corporation), located in Linden, New Jersey. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 19, 1995.

The refinery complex (1,250 acres) is located at 1400 Park Avenue, Linden (Union County), New Jersey, some 10 miles south of Newark. The refinery (220,000 barrels of crude oil per day; 950 employees) is used to produce fuels and petrochemical feedstocks. Fuels produced include gasoline, jet fuel, diesel fuel, fuel oil, kerosene, and naphtha. Petrochemical feedstocks include butane, butylene, propane, ethylene, propylene, and petroleum gas. Refinery by-products include petroleum coke. All of the crude oil (80% of inputs), some feedstocks and some blendstocks are sourced abroad.

Zone procedures would exempt Bayway from Customs duty payments on the foreign products used in its exports. On domestic sales, the company would be able to choose the finished product duty rate (nonprivileged foreign status—NPF) on certain petrochemical feedstocks and refinery by-products (duty-free). The duty on crude oil ranges from 5.25 to 10.5/barrel. The application indicates that the savings from zone procedures

would help improve the refinery's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 28, 1995. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to September 11, 1995).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, Room 3718, Federal Office Building, 26 Federal Plaza, New York, NY 10278

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: June 19, 1995.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–15608 Filed 6–26–95; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–588–707]

Granular Polytetrafluoroethylene Resin from Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of Antidumping Duty Administrative Review.

SUMMARY: On January 30, 1995, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of its 1992–93 administrative review of the antidumping duty order on granular polytetrafluoroethylene (PTFE) resin from Japan (60 FR 5622). The review covers one manufacturer/exporter. The review period is August 1, 1992, through July 31, 1993. We gave interested parties an opportunity to comment on our preliminary results. Based upon our analysis of the comments received we have changed the margin calculation. The final margin for Daikin Industries (Daikin) is listed below in the section ''Final Results of Review.''

EFFECTIVE DATE: June 27, 1995.

FOR FURTHER INFORMATION CONTACT: Charles Riggle or Michael Rill, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On January 30, 1995, the Department published in the **Federal Register** the preliminary results of its 1992–93 administrative review of the antidumping duty order on granular PTFE resin from Japan. There was no request for a hearing. The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Applicable Statutes and Regulations

Unless otherwise stated, all citations to the statutes and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

Scope of the Review

The antidumping duty order covers granular PTFE resins, filled or unfilled. The order explicitly excludes PTFE dispersions in water and PTFE fine powders. During the period covered by this review, such merchandise was classified under item number 3904.61.90 of the Harmonized Tariff Schedule (HTS). We are providing this HTS number for convenience and Customs purposes only. The written description of scope remains dispositive.

The review covers one manufacturer/exporter of granular PTFE resin, Daikin. The review period is August 1, 1992, through July 31, 1993.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received a case brief from petitioner, E. I. Du Pont de Nemours & Company (Du Pont), and case and rebuttal briefs from Daikin.

Issues Raised by Du Pont

Comment 1: Du Pont argues that, although the Department determined that Daikin's U.S. sales included both purchase price and exporter's sales price (ESP) transactions, the Department should treat all of Daikin's U.S. sales as ESP transactions. Du Pont claims that Daikin's wholly-owned U.S. subsidiary, Daikin America, Inc. (DAI), is actively involved in all critical aspects of Daikin's U.S. sales process. Du Pont claims that DAI has become a full-fledged sales, marketing and technical services organization, and that DAI now runs Daikin's PTFE business in the United States. Du Pont claims that DAI's activities and responsibilities go beyond the more limited ''paper pusher'' role of a related party in purchase price transactions.

Daikin argues that the Department correctly determined that some of Daikin's U.S. sales were purchase price sales, and that the facts surrounding Daikin's purchase price sales are easily distinguishable from those sales treated as ESP transactions. Daikin argues that, as in the first review, the Department applied its three-prong test for determining whether a transaction should be treated as a purchase price or as an ESP sale. Daikin notes that, as in the first review, the Department determined that sales meeting the criteria set forth in the test were properly treated as purchase price sales. *See Granular Polyvtetrafluoroethylene Resin From Japan; Final Results of Antidumping Duty Administrative Review*, 58 FR 50343 (September 27, 1993) (*PTFE I*).

DOC Position: We agree with Daikin. In reaching our preliminary results of review, we examined DAI's role to determine whether Daikin's sales were purchase price or ESP. *See Granular Polytetrafluoroethylene Resin From Japan; Preliminary Results of Antidumping Duty Administrative Review*, 60 FR 5622 (January 30, 1995). We applied a three-part test, as outlined in the preliminary results, and in *PTFE I*, 58 FR at 50344. For certain sales, DAI merely facilitated the sales process, which was handled directly by Daikin in Japan. Daikin controlled pricing and selling decisions, while DAI acted as a communication link between Daikin and unrelated commission agents responsible for making sales. There is no evidence that would indicate that DAI performed more than routine selling functions with regard to these sales, which we therefore continue to regard as purchase price transactions.

For other sales we found that DAI had inventoried the subject merchandise in warehouses in the United States based upon anticipated demand.

We determined that these sales were ESP sales, which Daikin has not challenged.

Comment 2: Du Pont claims that the Department failed to include several

ESP sales in the preliminary results. The Department analyzed ESP transactions with entry dates that fell within the period of review (POR). Du Pont argues that the Department's established policy is to analyze ESP sales by date of sale rather than date of entry, because ESP sales frequently enter the United States prior to the actual date of sale. Du Pont argues that the Department should revise its calculations to analyze ESP sales by sale date instead of entry date.

Daikin agrees that the Department's calculations should be revised in order to capture all ESP transactions with sale dates during the POR.

DOC Position: We agree. We erroneously analyzed ESP sales by entry date rather than sale date, as is our established practice. We have revised the calculations for these final results.

Issue Raised by Daikin

Comment 3: Daikin argues that the Department should reduce the quantity sold on U.S. sales by the quantity of returned merchandise in order to account for losses incurred by Daikin for the replacement of defective merchandise, which, Daikin stated, cannot be resold. Daikin notes that, according to the Department's analysis memorandum, the Department intended to adjust the quantity sold by the quantity of returned merchandise.

Antidumping Duty Order on Granular Polytetrafluoroethylene Resin from Japan—Analysis Memorandum for Preliminary Results of Second Review of Daikin Industries (December 2, 1994) (Analysis Memorandum).

Daikin states that such an adjustment is necessary in order to avoid double counting the costs and expenses associated with returned merchandise, because all expenses related to returns are reported under separate variables and are already incorporated in the margin calculation. According to Daikin, failure to make the adjustment would result in the same merchandise contributing a second time to an increase in dumping duties when the Department calculates duties for the returned quantity. Furthermore, Daikin argues that the Department routinely adjusts for returns by deducting the amount returned from the original transaction.

DOC Position: We agree with Daikin. We intended to adjust the quantity of U.S. sales by deducting the quantity of returned defective merchandise. *Analysis Memorandum* at 2. The returned merchandise can be tied to the related sale by invoice number. We made a similar adjustment for returns associated with home market sales. We have revised our calculations for these final results to adjust U.S. sales quantities to account for returns.

Final Results of the Review

As a result of the comments received, we have revised our preliminary results and determine that the following margin exists:

Manufacturer/exporter	Period	Margin (percent)
Daikin Industries	08/01/92–07/31/93.	23.33

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided by section 751(a)(1) of the Tariff Act:

(1) The cash deposit rate for Daikin will be the rate shown above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be 91.74 percent, the ''all others'' rate from the LTFV investigation, for the reasons explained in *PTFE I*

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOS) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d)(1). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: June 21, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–15610 Filed 6–26–95; 8:45 am]

BILLING CODE 3510–DS–P

Beckman Research Institute et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 95–001. *Applicant:* Beckman Research Institute of the City of Hope, Duarte, CA 91010. *Instrument:* Mass Spectrometer, Model MAT 900. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* See notice at 60 FR 5166, January 26, 1995. *Reasons:* The foreign instrument provides: (1) capability of switching modes between scans based on results of the previous scan, (2) magnetic sector operations and (3) high sensitivity with electrospray. *Advice Received From:* National Institutes of Health, April 25, 1995.

Docket Number: 95–002. *Applicant:* Metropolitan Water District of Southern California, La Verne, CA 91750. *Instrument:* Mass Spectrometer, Model Autospec. *Manufacturer:* Fisons, United Kingdom. *Intended Use:* See notice at 60 FR 7168, February 7, 1995. *Reasons:* The foreign instrument provides

magnetic sector design permitting both high and low energy MS/MS with resolution to 60 000 and accuracy to ±0.002 dalton to eliminate chemical interferences. *Advice Received From:* National Institutes of Health, April 25, 1995.

Docket Number: 95–006. *Applicant:* Northwestern University, Evanston, IL 60208-2150. *Instrument:* Mass Spectrometer, Model OPTIMA. *Manufacturer:* Fisons Instruments, United Kingdom. *Intended Use:* See notice at 60 FR 9662, February 21, 1995. *Reasons:* The foreign instrument provides: (1) on-line and dual-microinlet sample preparation and (2) high accuracy, high precision simultaneous multi-isotope measurements of gaseous species. *Advice Received From:* National Institutes of Health, April 25, 1995.

Docket Number: 95–009. *Applicant:* University of Texas at Austin, Austin, TX 78712. *Instrument:* Precise Range and Range-rate Equipment Satellite Tracking Ground Station. *Manufacturer:* Dornier GmbH, Germany. *Intended Use:* See notice at 60 FR 13700, March 14, 1995. *Reasons:* The foreign instrument provides: (1) a regenerative, coherent X-band transponder for precise range and range rate measurements and (2) an S-band receiver for measurement of S/X-band delay difference to permit operation as a ground station for the ERS-2 satellite. *Advice Received From:* The Satellite Research Lab, NOAA, April 25, 1995.

The National Institutes of Health and The Satellite Research Lab advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 95–15611 Filed 6–26–95; 8:45 am]

BILLING CODE 3510–DS–F

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 94–145R. *Applicant:* Miami University, Office of Purchasing, 213 Roudebush Hall, Oxford, OH 45056. *Instrument:* Cryostage. *Manufacturer:* Linkham Scientific Instruments, Ltd., United Kingdom. *Intended Use:* Original notice of this resubmitted application was published in the FEDERAL REGISTER of January 4, 1995.

Docket Number: 95–043. *Applicant:* Indiana University Medical Center, Department of Radiation Oncology, 535 Barnhill Drive, Indianapolis, IN 46202-5289. *Instrument:* Radiation Therapy Simulator, Model Simulix-MC. *Manufacturer:* Oldelft, The Netherlands. *Intended Use:* The instrument will be used for training resident radiation oncologists and student radiation therapists in the use and operation of this equipment. *Application Accepted by Commissioner of Customs:* June 2, 1995.

Docket Number: 95–044. *Applicant:* The University of Iowa, Department of Chemical and Biochemical Engineering, Iowa City, IA 52242. *Instrument:* Laser Light Scattering Correlator and Monomode Fiber Optical Goniometer System. *Manufacturer:* AL - Laser Vertriebsgesellschaft mbH, Germany. *Intended Use:* The instrument will be used to study polyphenolics, polycarbohydrates, proteins, surfactants of varying types, and whole cells (yeast, bacteria and insect cells). The experiments will consist of measurements of polymer characteristics (mass, size, force) to confirm or assess the state of purity of commercially purchased samples or samples prepared in the labs which are used as standards during other tests. The instrument will also be used extensively in Ph.D. Dissertation coursework by students operating the instrument collecting and analyzing the data, and characterizing the various samples. *Application Accepted by Commissioner of Customs:* June 2, 1995.

Docket Number: 95–045. *Applicant:* The Scripps Research Institute, 10666 N. Torrey Pines Road, La Jolla, CA 92037. *Instrument:* Mass Spectrometer System, Model API 100. *Manufacturer:* PE Sciex, Canada. *Intended Use:* The instrument will be used to conduct studies of proteins, peptides, oligonucleotides and carbohydrates, natural and synthetic products and components of biological fluids. The goal of the investigations is to further develop electrospray mass spectrometry as a tool for biological and biochemical research. *Application Accepted by Commissioner of Customs:* June 5, 1995.

Docket Number: 95–047. *Applicant:* Georgia State University, University Plaza, Atlanta, GA 30303. *Instrument:* Laser Ablation System, Model 266. *Manufacturer:* Finnigan MAT, United Kingdom. *Intended Use:* The instrument will be used in a pilot study to determine trace elements, including rare earth elements in fluid inclusions. The goals of this study are to: (1) fully develop the crush-leach ICPMS for analyzing bulk inclusions for REE and other petrologically and economically important trace metals, (2) evaluate the full potential of LA-ICPMS for the study of single fluid inclusions, and (3) conduct a detailed ICPMS study on bulk fluid inclusions and LA-ICPMS study on single fluid inclusions from the Bingham, base metal porphyry system in order to determine which fluids carried the bulk of the metals in this system. *Application Accepted by Commissioner of Customs:* June 6, 1995.

Frank W. Creel

Director, Statutory Import Programs Staff

[FR Doc. 95–15612 Filed 6–26–95; 8:45 am]

BILLING CODE 3510–DS–F

DEPARTMENT OF DEFENSE

Department of the Air Force

Intent to Grant an Exclusive Patent License

Pursuant to the provisions of Part 404 of Title 37, Code of Federal Regulations, which implements Public Law 96–517, the Department of the Air Force announces its intention to grant Diffracto Limited, a corporation of the Province of Ontario, Canada, an exclusive license under: U.S. Patent Application Serial No. 08/415,407 for a ''System And Method For Measuring Crazing In A Transparency''.

The license described above will be granted unless an objection thereto, together with a request for an opportunity to be heard, if desired, is received in writing by the addressee set forth below within sixty (60) days from the date of publication of this Notice. Copies of the patent application may be

obtained, on request, from the same addressee.

All communications concerning this Notice should be sent to: Mr. Samuel B. Smith, Jr., Chief, Intellectual Property Branch, Commercial Litigation Division, Air Force Legal Services Agency, AFLSA/JACNP, 1501 Wilson Blvd., Suite 805, Arlington, VA 22209–2403, Telephone No. (703) 696–9050.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 95–15595 Filed 6–26–95; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education; William D. Ford Federal Direct Loan Program

AGENCY: Department of Education.

ACTION: Notice of interest rates for the William D. Ford Federal Direct Loan Program for the period July 1, 1995, through June 30, 1996.

SUMMARY: The Assistant Secretary for Postsecondary Education announces the interest rates for variable rate loans made under the William D. Ford Federal Direct Loan (Direct Loan) Program for the period July 1, 1995, through June 30, 1996.

FOR FURTHER INFORMATION CONTACT: Barbara F. Grayson, Program Specialist, William D. Ford Federal Direct Loan Program, Division of Policy and Program Development, Office of Postsecondary Education, U.S. Department of Education, Room 3045, ROB–3, 600 Independence Avenue, SW, Washington, DC 20202–5400. Telephone: (202)708–6876. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The formulas for determining the interest rates for Direct Loan Program Loans are provided under section 455 of the Higher Education Act of 1965, as amended (the Act) (20 U.S.C. 1087e), and in §§ 685.202 (a) and 685.215(g) of the final regulations published in the **Federal Register** on December 1, 1994 (59 FR 61693 and 61704, respectively). Section 455(b) of the Act provides that a variable interest rate applies to loans made under the Direct Loan Program and disbursed on or after July 1, 1994. The variable rate applies for each 12-month period beginning July 1 and ending June 30. For Federal Direct Stafford/Ford (Direct Subsidized) and Federal Direct Unsubsidized Stafford/Ford (Direct Unsubsidized) Loans, and Federal Direct Subsidized and Federal Direct Unsubsidized Consolidation Loans, the interest rate may not exceed 8.25 percent. For Federal Direct PLUS and Federal Direct PLUS Consolidation Loans the interest rate may not exceed 9.00 percent.

Interest Rates for Direct Subsidized, Direct Unsubsidized, Direct Subsidized Consolidation, and Direct Unsubsidized Consolidation Loans

Loans first disbursed prior to July 1, 1995. Pursuant to section 455(b)(1) of the Act, the Assistant Secretary has determined the interest rate for the period July 1, 1995, through June 30, 1996, to be 8.25 percent.

Loans first disbursed on or after July 1, 1995. (a) During the in-school, grace, and deferment periods. Pursuant to section 455(b)(2) of the Act, the Assistant Secretary has determined the interest rate for the period July 1, 1995, through June 30, 1996, to be 8.25 percent.

(b) During all other periods. Pursuant to section 455(b)(1) of the Act, the Assistant Secretary has determined the interest rate for the period July 1, 1995, through June 30, 1996, to be 8.25 percent.

Interest Rates for Direct PLUS and Direct PLUS Consolidation Loans

Pursuant to section 455(b)(4) of the Act, the Assistant Secretary has determined the interest rate for the period July 1, 1995, through June 30, 1996, to be 8.98 percent.

(20 U.S.C. 1087e)

Dated: June 21, 1995.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 95–15627 Filed 6–26–95; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL95–55–000, et al.]

Plains Electric Generation and Transmission Cooperative, Inc., et al.; Electric Rate and Corporate Regulation Filings

June 20, 1995

Take notice that the following filings have been made with the Commission:

1. Plains Electric Generation and) Transmission Cooperative, Inc.) v. Public Service Company of New Mexico

[Docket No. EL95–55–000]

Take notice that on June 13, 1995, Plains Electric Generation and Transmission Cooperative, Inc. (Plains) filed a complaint under Section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, alleging that the rates currently being charged by Public Service Company of New Mexico (PNM) for firm, point-to-point transmission service under Service Schedule G to the PNM-Plains Master Interconnection Agreement and the Agreement for Electric Service between PNM and Plains are unjust, unreasonable or otherwise unlawful. Plains further requests that the Commission institute an investigation and hearing into the justness and reasonableness of rates charged under Service Schedule G and the Agreement for Electric Service, determine just and reasonable rates and establish a refund effective date not later than sixty days after the filing of Plains' complaint.

PNM's currently effective rates at issue in Plains' complaint were accepted for filing as to Service Schedule G in Docket No. ER87–360–000 on July 6, 1987 (as extended in Docket No. ER95–329–000, accepted for filing on February 27, 1995), and as to the Agreement for Electric Service in Docket No. ER91–644–000 on October 18, 1991. Plains estimates that PNM's maximum just and reasonable rate for firm, point-to-point transmission service under the referenced agreements should be approximately 45 percent less than PNM's currently effective rates. Based largely on data taken from PNM's Form 1 report for 1994, Plains has performed an initial transmission rate analysis using the levelized fixed charge rate methodology, and claims that the maximum just and reasonable rates for firm, point-to-point transmission service under the referenced agreements should not exceed $1.34 per Kw-month.

Comment date: July 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Niagara Mohawk Power Corporation

[Docket No. ER95–1070–000]

Take notice that Niagara Mohawk Power Corporation (Niagara Mohawk) on June 16, 1995, tendered for filing an amendment to an agreement between Niagara Mohawk and Rainbow Energy Marketing Corp. (Rainbow) dated May 18, 1995 providing for certain transmission services to Rainbow.

Copies of this filing were served upon Rainbow and the New York State Public Service Commission.

Comment date: July 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Central Hudson Gas and Electric Corporation

[Docket No. ER95–1185–000]

Take notice that on June 8, 1995, Central Hudson Gas and Electric Corporation (CHG&E), tendered for filing a Service Agreement between CHG&E and New England Power Company. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER94–1662. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: July 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. San Diego Gas & Electric Company

[Docket No. ER95–1193–000]

Take notice that on June 9, 1995, San Diego Gas & Electric Company (SDG&E), tendered for filing and acceptance, pursuant to 18 CFR 35.12, an Interchange Agreement (Agreement) between SDG&E and InterCoast Power Marketing Company (IPM).

SDG&E requests that the Commission allow the Agreement to become effective on August 14, 1995, or at the earliest possible date.

Copies of this filing were served upon the Public Utilities Commission of the State of California and IPM.

Comment date: July 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Jamaica Energy Partners

Docket No. EG95–57–000

On June 14, 1995, Jamaica Energy Partners, c/o Wartsila Diesel Development Corp., Inc., 201 Defense Highway, Suite 100, Annapolis, Maryland 21401 (Applicant), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations (the Application).

Applicant will own an approximately 76 MW floating diesel-engine-powered electric generating facility located in Old Harbour Bay, Jamaica. The Facility's electricity will be sold exclusively at wholesale, with the possible exception of some retail sales in Jamaica. None of the electric energy generated by the Facility will be sold to consumers in the United States.

Comment date: July 14, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

6. Concord Electric Company

[Docket No. ER94–692–003]

Take notice that on June 9, 1995, Concord Electric Company tendered for filing its refund report in the above-referenced docket.

Comment date: July 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Montaup Electric Company

[Docket No. ER94–1062–002]

Take notice that on May 30, 1995, Montaup Electric Company tendered for filing its refund report in the above-referenced docket.

Comment date: July 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. UtiliCorp United Inc., Aquila Power Corporation

[Docket No. ER95–203–003] and ER95–216–003 (Not Consolidated)

Take notice that on June 16, 1995, UtiliCorp United Inc. (''UtiliCorp'') tendered for filing a Network Integration Service tariff for its West Virginia Power division in compliance with the Commission's May 18, 1995 order in these proceedings.

A copy of the filing was served on each party to these proceedings and the Public Service Commission of the State of West Virginia.

Comment date: July 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Delmarva Power & Light Company

[Docket No. ER95–222–001]

Take notice that on June 15, 1995, Delmarva Power & Light Company (Delmarva) made its compliance filing pursuant to the Commission's order issued May 17, 1995. Delmarva's filing includes the following:

A. Sample formula calculations;

B. Revised tariff sheets which include the rates for ancillary services; a rate of return on equity with cost support; and revised provisions substituting ''or'' pricing for ''and'' pricing; and

C. Cost support for the ancillary rates.

Comment date: July 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. American Electric Power Service Corporation

[Docket No. ER95–497–000]

Take notice that on June 16, 1995, the American Electric Power Service Corporation (AEPSC) amended its filing in the above referenced Docket to modify the method by which AEPSC will determine the cost of emission allowances and including provisions where AEPSC may require a purchasing company to declare, at the beginning of a transaction, whether they will pay in cash or return allowances in-kind.

A copy of the filing was served upon the parties affected by the amendment and the affected state regulatory commissions.

Comment date: July 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Kentucky Utilities Service

[Docket No. ER95–595–000]

Take notice that Northeast Utilities Service Company, (NUSCO) filed on behalf of Kentucky Utilities on June 16, 1995, a Service Agreement to provide non-firm transmission service to Rainbow Energy Marketing Corporation (Rainbow) under the NU System Companies' Transmission Service Tariff No. 2.

NUSCO states that a copy of this filing has been mailed to Rainbow.

NUSCO requests that the Service Agreement become effective sixty (60) days after receipt of this filing by the Commission.

Comment date: July 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Connecticut Valley Electric Company, Central Vermont Public Service Corporation

Docket Nos. ER95–679–000 and No. ER95–680–000

Take notice that on June 14, 1995, Connecticut Valley Electric Company and Central Vermont Public Service Corporation tendered for filing an amendment to its filing in response to the Commission's April 28, 1995, deficiency letter.

Comment date: July 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Louisville Gas and Electric Company

[Docket No. ER95–928–000]

Take notice that on June 15, 1995, Louisville Gas and Electric Company

tendered for filing an amendment to its April 19, 1995 filing in the above-referenced docket.

Comment date: July 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Louisville Gas and Electric Company

[Docket No. ER95–997–000]

Take notice that on June 15, 1995, Louisville Gas and Electric Company tendered for filing an amendment to its May 1, 1995 filing in the above-referenced docket.

Comment date: July 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. American Electric Power Service Corporation

[Docket No. ER95–1121–000]

Take notice that on June 14, 1995, the American Electric Power Service Corporation (AEPSC) amended its filing in the above referenced docket to (1) comply with the Commission's order directing revisions to recovery of costs for emission allowances and (2) submit to the Commission, Service Schedule A—AEP Transmission Service, which was inadvertently omitted from the initial filing.

A copy of the filing was served upon the parties affected by the amendment and the affected state regulatory commissions.

Comment date: July 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. Central Illinois Public Service Company

[Docket No. ER95–1187–000]

Take notice that on June 8, 1995, Central Illinois Public Service Company (CIPS), submitted a Service Agreement, dated May 30, 1995, establishing Madison Gas and Electric Company as a customer under the terms of CIPS' Coordination Sales Tariff CST–1 (CST–1 Tariff).

CIPS requests an effective date of May 30, 1995 for the service agreement, and, accordingly, seeks waiver of the Commission's notice requirements. Copies of this filing were served upon Madison Gas and Electric Company and the Illinois Commerce Commission.

Comment date: July 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. Louisville Gas and Electric Company

[Docket No. ER95–1191–000]

Take notice that on May 22, 1995, Louisville Gas and Electric Company tendered for filing a copy of a service agreement between Louisville Gas and Electric Company and ENRON Power Marketing, Inc., under Rate GSS.

Comment date: July 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

18. Louisville Gas and Electric Company

[Docket No. ER95–1192–000]

Take notice that on June 9, 1995, Louisville Gas and Electric Company, tendered for filing a copy of a service agreement between Louisville Gas and Electric Company and Enron Power Marketing, Inc. under Rate GSS.

Comment date: July 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

19. Crockett Cogeneration, a California Limited Partnership

[Docket No. QF84–429–003]

On June 14, 1995, Crockett Cogeneration, A California Limited Partnership, tendered for filing an amendment to its filing in this docket. No determination has been made that the submittal constitutes a complete filing.

The amendment provides additional information pertaining to the ownership and technical characteristics of the facility.

Comment date: July 11, 1995, in accordance with Standard Paragraph E at the end of this notice.

20. Air Products Hycal Company, L.P.

[Docket No. QF95–260–000]

On June 16, 1995, Air Products Hycal Company, L.P., (Air Products) tendered for filing an amendment to its filing in this docket.

The amendment pertains to information relating to the technical aspects of Air Products' cogeneration facility. No determination has been made that the submittal constitutes a complete filing.

Comment date: July 10, 1995, in accordance with Standard Paragraph E at the end of this notice.

21. Indiana Michigan Power Company

[Docket No. ER95–1164–000]

Take notice that on June 6, 1995, American Electric Power Service Corporation (AEPSC), tendered for filing a service agreement for transmission service to be made available to Indiana Municipal Power Agency pursuant to AEPSC FERC Electric Tariff Original Volume No. 1. Waiver of Notice requirements was requested to accommodate an effective date of June 1, 1995.

A copy of the filing was served upon IMPA and the affected state regulatory commission.

Comment date: July 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–15628 Filed 6–26–95; 8:45 am]

BILLING CODE 6717–01–P

[Project Nos. 2530–014, *et al.*]

Hydroelectric Applications [Central Maine Power Company, et al.]; Notice of Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1. a. Type of Application: Amendment of Licenses.

b. Project Nos. P–2530–014, P2531–020, P–2194–001.

c. Date Filed: May 18, 1995.

d. Applicant: Central Maine Power Company.

e. Name of Projects: Hiram Project, West Buxton Project, Bar Mills Project.

f. Location: Cumberland, York and Oxford Counties, Maine.

g. Filed Pursuant To: Federal Power Act, 16 U.S.C. Sec. 792(a)–825(r).

h. Applicant Contact: Sarah A. Verville, Esq., Central Maine Power Company, Edison Drive, Augusta, ME 04330, (207) 623–3521.

i. FERC Contact: Robert Grieve, (202) 219–2655.

j. Comment Date: August 7, 1995.

k. Description of Amendment: Central Maine Power Company (CMP) filed applications to amend existing licenses for the Hiram, West Buxton, and Bar

Mills Projects to incorporate the provisions of the May 24, 1994 Saco River Fish Passage Agreement (Agreement) into each project license. The Agreement sets forth the steps and time table agreed to by the parties (CMP, Maine Atlantic Sea Run Salmon Commission, Maine State Planning Office, Saco River Salmon Club, U.S. Fish and Wildlife Service, National Marine Fisheries Service, Trout Unlimited, Atlantic Salmon Federation, American Rivers, Inc., Maine Council Atlantic Salmon Federation, Maine Council Trout Unlimited, City of Saco, City of Biddeford, New Hampshire Department of Fish and Game, and Swan Falls Corp.) regarding fish passage facilities at CMP's dams on the Saco River.

l. This notice also consists of the following standard paragraphs: B, C1, D2.

2. a. Type of Application: Minor License.

b. Project No. 11546–000.

c. Date Filed: May 31, 1995.

d. Applicant: City of Thief River Falls Municipal Utilities.

e. Name of Project: Municipal Power Dam.

f. Location: On Red Lake River in the City of Thief River Falls, Pennington County, Minnesota.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. Applicant Contact: Arlo L. Rude, P.O. Box 528, Thief River Falls, Minnesota 56701, (218) 681–5816.

i. FERC Contact: Charles T. Raabe (dt) (202) 219–2811.

j. Comment Date: July 31, 1995.

k. Description of Project: The existing, operating project consists of: (1) A reservoir with a storage capacity of approximately 1,133 acre-feet; (2) an existing 193-foot-long, 24.5-foot-high concrete gravity dam, having three 17.75-foot-wide, 11-foot-high steel tainter gates and four overflow sections with flashboards; (3) a concrete and brick powerhouse, containing one 250-kilowatt (Kw) generating unit and one 300-Kw generating unit; and (4) appurtenant facilities.

l. With this notice, we are initiating consultation with the State Historic Preservation Officer (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

m. Pursuant to Section 4.32(b)(7) of 18 CFR of the Commission's Regulations, if any resource agency, SHPO, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, SHPO, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on the applicant.

3. a. Type of Application: Transfer of License.

b. Project No. 2058–010.

c. Date Filed: June 9, 1995.

d. Applicant: The Washington Water Power Company/Resources West Energy Corporation.

e. Name of Projects: Cabinet Gorge.

f. Location: On Clark Fork River about 9 miles upstream from Pend Oreille Lake, in Bonner County, Idaho and Sanders County, Montana.

g. Filed Pursuant to: Federal Power Act, 16 USC Section 791(a)–825(r).

h. Applicant Contact: Ms. Terry L. Syms, 1411 East Mission Avenue, Spokane, WA 99220–3727, (509) 489–0500.

i. FERC Contact: Diane M. Murray, (202) 219–2682.

j. Comment Date: August 9, 1995.

k. Description: Application for transfer of the license from Washington Water Power Company to Resources West Energy Corporation.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

4 a. Type of Application: Transfer of License.

b. Project No: 2075–010.

c. Date Filed: June 9, 1995.

d. Applicant: The Washington Water Power Company/Resources West Energy Corporation.

e. Name of Project: Noxon Rapids.

f. Location: On Clark Fork River, in Sanders County, Montana.

g. Filed Pursuant to: Federal Power Act, 16 USC Sections 791(a)–825(r).

h. Applicant Contact: Ms. Terry L. Syms, 1411 East Mission Avenue, Spokane, WA 99220–3727, (509) 489–0500.

i. FERC Contact: Diane M. Murray, (202) 219–2682.

j. Comment Date: August 9, 1995.

k. Description: Application for transfer of the license from Washington Water Power Company to Resources West Energy Corporation.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

5 a. Type of Application: Transfer of License.

b. Project No: 2544–014.

c. Date Filed: June 9, 1995.

d. Applicant: The Washington Water Power Company/Resources West Energy Corporation.

e. Name of Project: Meyers Falls.

f. Location: On Colville River, in Stevens County, Washington, near the town of Kettle Falls.

g. Filed Pursuant to: Federal Power Act, 16 USC Section 791(a)–825(r).

h. Applicant Contact: Ms. Terry L. Syms, 1411 East Mission Avenue, Spokane, WA 99220–3727, (509) 489–0500.

i. FERC Contact: Diane M. Murray, (202) 219–2682.

j. Comment Date: August 9, 1995.

k. Description: Application for transfer of the license from Washington Water Power Company to Resources West Energy Corporation.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

6 a. Type of Application: Transfer of License.

b. Project No: 2545–048.

c. Date Filed: June 9, 1995.

d. Applicant: The Washington Water Power Company/Resources West Energy Corporation.

e. Name of Project: Spokane River.

f. Location: On Spokane River, in Spokane, Stevens, and Lincoln Counties, Washington.

g. Filed Pursuant to: Federal Power Act, 16 USC Sections 791(a)–825(r)

h. Applicant Contact: Ms. Terry L. Syms, 1411 East Mission Avenue, Spokane, WA 99220–3727, (509) 489–0500.

i. FERC Contact: Diane M. Murray, (202) 219–2682

j. Comment Date: August 9, 1995

k. Description: Application for transfer of the license from Washington Water Power Company to Resources West Energy Corporation.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

7 a. Type of Application: Surrender of Exemption.

b. Project No: 6136–006.

c. Date Filed: June 6, 1995.

d. Applicant: Ordell O. & Rita A. Portwood.

e. Name of Project: Old Oak Ranch Power.

f. Location: North Fork Tule River, Tulare County, California, near Milo.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. Applicant Contact: Ordell O. & Rita A. Portwood, P.O. Box 736, Springville, CA 93265, (209) 539–2480.

i. FERC Contact: Mark Hooper, (202) 219–2680.

j. Comment Date: August 9, 1995.

k. Description of Application: The project consists of: (1) A 5.5-foot-high diversion structure with a 12-inch-

diameter outlet pipe; (2) a 4,750-foot-long, 34-inch-diameter steel conduit; (3) a powerhouse; and (4) a 1,000-foot-long, 12 Kv transmission line connected to an SCE transmission line.

Applicant wishes to surrender their exemption because of the inability to find a buyer or keep the project operating.

1. This notice also consists of the following standard paragraphs: B, C1, and D2.

Standard Paragraphs

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: June 21, 1995, Washington, D.C.

Lois D. Cashell,

Secretary.

[FR Doc. 95–15709 Filed 6–26–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–344–000]

Algonquin Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

June 21, 1995.

Take notice that on June 15, 1995, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of pits FERC Gas Tariff, the following revised tariff sheets, effective July 15, 1995:

Fourth Revised Volume No. 1

First Revised Sheet No. 3
First Revised Sheet No. 4
Fourth Revised Sheet No. 20
Twenty-first Revised Sheet No. 20A
Fifth Revised Sheet No. 30
Fifth Revised Sheet No. 32
Seventh Revised Sheet No. 33
Sixth Revised Sheet No. 34
First Revised Sheet No. 95
First Revised Sheet No. 96
Fourth Revised Sheet No. 97
Third Revised Sheet No. 98
First Revised Sheet No. 98B
First Revised Sheet No. 98D
First Revised Sheet No. 98F
First Revised Sheet No. 99A
First Revised Sheet No. 100
First Revised Sheet No. 115
First Revised Sheet No. 135
First Revised Sheet No. 151
First Revised Sheet No. 181
First Revised Sheet No. 201
First Revised Sheet No. 208
First Revised Sheet No. 220
Third Revised Sheet No. 600
First Revised Sheet No. 611
First Revised Sheet No. 624
First Revised Sheet No. 625
First Revised Sheet No. 662
First Revised Sheet No. 663
Second Revised Sheet No. 678
Second Revised Sheet No. 679
Second Revised Sheet No. 680
First Revised Sheet No. 680A
Second Revised Sheet No. 686
Fifth Revised Sheet No. 705
Second Revised Sheet No. 706
First Revised Sheet No. 799
First Revised Sheet No. 850
First Revised Sheet No. 870
First Revised Sheet No. 880
First Revised Sheet No. 890

Original Volume No. 2

16 Rev Sheet No. 1–A
Fifth Revised Sheet No. 1B
Third Revised Sheet No. 169
First Revised Sheet No. 240
First Revised Sheet No. 244
First Revised Sheet No. 248
First Revised Sheet No. 252
Second Revised Sheet No. 277
Second Revised Sheet No. 295
First Revised Sheet No. 400

Algonquin states that the purpose of this filing is to (i) cancel certain rate schedules and rate sheets that are no longer in effect, and (ii) correct other typographical errors and ambiguities in its tariff.

Algonquin further states that copies of this filing were mailed to all affected customers of Algonquin and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20406, in accordance with 18 CFR Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such notions or protests should be filed on or before June 28, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–15631 Filed 6–26–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–345–000]

Algonquin Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

June 21, 1995.

Take notice that on June 16, 1995, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets, with a proposed effective date of July 16, 1995:

Twenty-second Revised Sheet No. 20A
Original Sheet No. 99C

Algonquin states that the purpose of this filing is to flow through a refund from National Fuel Gas Supply Corporation related to its Account Nos. 191 and 186, as filed in National Fuel's Docket No. RP95–80–000.

Algonquin states that copies of this filing were mailed to all firm customers of Algonquin and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 28, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–15632 Filed 6–26–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–347–000]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

June 21, 1995.

Take notice that on June 16, 1995, CNG Transmission Corporation (CNG), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet, with a proposed effective date of July 11, 1995:

Third Revised Sheet No. 58

CNG requests an effective date for this tariff sheet of July 11, 1995; to that end, CNG seeks waiver of Section 154.22 of the Commission's Regulations. This accelerated effective date will enable CNG to reduce its customers' obligations during the next available invoice cycle.

CNG states that the purpose of this filing is to flow back to CNG's customers a principal credit amount of $9,297,862, which is related to CNG's unrecovered purchased gas and sales-related transportation costs (''Section 18.1 Transition Costs''). This credit reflects amounts that have been booked to CNG's Account Nos. 191 and 186 since CNG's previous Section 18.1 Transition Cost filing (in Docket No. RP94–300).

CNG states that copies of this letter of transmittal and enclosures are being mailed to CNG's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure, 18 CFR Sections 385.214 and 385.211. All motions or protests should be filed on or before June 28, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–15633 Filed 6–26–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–226–006]

Kern River Gas Transmission Company; Notice of Refund Report

June 21, 1995.

Take notice that on June 15, 1995, Kern River Gas Transmission Company (Kern River), filed refund report made in compliance with the October 19, 1994, Stipulation and Agreement (Settlement) and the Commission's January 25, 1995 and April 4, 1995, orders approving the Settlement in the above referenced docket.

Kern River stated that on May 31, 1995, a total refund of $48,518,974.15 was sent to its eighteen customers. The report provides details of the refunds of amounts collected in excess of the rates established by the settlement. It is stated that the refunds are further based on changes to the interruptible transportation revenue credits provided during period from March 1, 1993 through July 31, 1993 and from the period August 1, 1993 through April 30, 1995. Such changes (1) reflect the reduced interruptible revenue credit levels resulting from the Settlement; and (2) implement, effective January 1, 1994, the revised interruptible revenue crediting methodology established by Article I Section 6 of the Settlement.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before June 28, 1995. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–15634 Filed 6–26–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–286–001]

National Fuel Gas Supply Corporation; Notice of Compliance Filing

June 21, 1995.

Take notice that on June 16, 1995, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Second Revised Sheet No. 154, to be effective July 10, 1995.

National states that the tariff sheet is being submitted in compliance with the letter order issued June 6, 1995, by the Commission in Docket No. RP95–286–000. This order indicated that National should further revise its tariff provisions concerning capacity release to address Order No. 577–A, By substituting ''31 days'' for ''calendar month''.

National states that it is serving copies of the filing to its firm customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and regulations. All such protests should be filed on or before June 28, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–15635 Filed 6–26–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–242–001]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

June 21, 1995

Take notice that on June 19, 1995, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the below listed tariff sheets to be effective May 21, 1995:

Substitute First Revised Sheet No. 204
Original Sheet No. 204A
Substitute First Revised Sheet No. 206

Natural states that the purpose of this filing is to comply with the Commission's May 18, 1995 order in Docket No. RP95–242–000. The Commission's order accepted Natural's

proposed transition procedures to new services to be effective May 21, 1995, subject to refund and conditions. The conditions required Natural to change the date for election of services, that elections are non-binding and subject to modification, that Natural shall have the right to file for recovery of the cost of cushion gas and to justify the proposed July 1, 1996 effective date for the cushion gas filing.

Natural requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective May 21, 1995.

Natural states that copies of the filing are being mailed to Natural's jurisdictional customers, interested state regulatory agencies and intervenors in Docket No. RP95–242–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before June 28, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–15636 Filed 6–26–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–328–001]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

June 21, 1995.

Take notice that on June 13, 1995, Northern Natural Gas Company (Northern), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets with a proposed effective date of July 1, 1995:

Sub 2nd Revised 17th Revised Sheet No. 50
Sub 2nd Revised 17th Revised Sheet No. 51

Northern states that the above-referenced tariff sheets are being filed to correct the Reverse Auction (GSR–RA) surcharge which was filed on June 1, 1995.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before June 28, 1995. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–15637 Filed 6–26–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–166–028]

Northwest Pipeline Corp.; Notice of Compliance Filing in FERC Gas Tariff

June 21, 1995.

Take notice that on June 19, 1995, in conformity with Part 154 of the Regulations of the Federal Energy Regulatory Commission Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, all the preferred tariff sheets listed in Appendices 1 and 3 to the filing. Northwest states that the tariff sheets submitted in Appendices 2 and 3 to the filing are submitted as alternate tariff sheets in the event that the Commission does not accept the ''preferred'' tariff sheets.

Northwest states that the purpose of this filing is to comply with the Commission's May 18, 1995, Order Denying Rehearing and Rejecting Compliance Filing (''Order'') in Docket Nos. RP91–166–026 and –027. The Commission ordered Northwest to make a compliance filing within 30 days of the Order. Northwest states that the preferred methodology excludes ACA surcharges from the discount calculation and the alternate methodology includes ACA surcharges in the discount calculation.

Northwest states that the Order resolved the issue of the appropriate level of throughput to be used to calculate the supplier settlement payment (''SSP'') commodity surcharges that Northwest may collect for the period from July 1, 1991 through March 31, 1993. The corrected billing amounts which result from the revised surcharges are summarized by individual customer on proposed Sheet Nos. 13–A through 13–C.

Northwest states that a copy of this filing has been served upon all intervenors in Docket No. RP91–166–000, Northwest's affected jurisdictional customers and relevant state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before June 28, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–15638 Filed 6–26–95; 8:45 am]

BILING CODE 6717–01–M

[Docket No. RP95–348–000]

Panhandle Eastern Pipe Line Company; Notice of Filing

June 21, 1995.

Take notice that on June 19, 1995, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing, pursuant to Section 4 of the Natural Gas Act, a notice of termination of gathering service upon the transfer of Panhandle's gathering facilities to Panhandle Field Services (Field Services). Field Services will continue to offer gathering service to all existing shippers. Panhandle states that this filing is in compliance with Commission orders issued February 14, 1995, May 23, 1995 and June 15, 1995 in Docket Nos. CP90–1050–000, *et al.*, CP94–151–000 *et al.*, and CP94–152–000.

Panhandle has proposed an effective date of August 1, 1995 for the termination of gathering services on its West End gathering facilities which will be transferred to Field Services.

Panhandle states that in accordance with the Commission's regulations, a copy of the filing has been mailed to all of Panhandle's customers and interested state commissions as well as to all parties to the proceedings Docket Nos. CP94–151–000, *et al.* and CP94–152–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such motions or protests should be filed on or before June 28, 1995. Protests will be

considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–15639 Filed 6–26–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–567–000]

Panhandle Eastern Pipe Line Company; Notice of Request Under Blanket Authorization

June 21, 1995.

Take notice that on June 16, 1995, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP95–567–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to install three delivery points for Amarillo Natural Gas, Inc. (ANG), an intrastate pipeline company, under Panhandle's blanket certificate issued in Docket No. CP83–83–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

The proposed delivery points for ANG would be used to provide, (1) up to 530 MMBtu/day of natural gas to Seaboard Farms-Whitaker in Hansford County, Texas; (2) up to 400 MMBtu/day of natural gas to Seaboard Farms-Becker in Texas County, Oklahoma; and (3) up to 400 MMBtu/day of natural gas to Seaboard Farms-DePuy in Texas County, Oklahoma.

Panhandle states the estimated cost to construct the proposed facilities is approximately $150,000, and will be reimbursed 100% by ANG.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–15640 Filed 6–26–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–252–001]

Texas Eastern Transmission Corporation: Notice of Proposed Changes In FERC Gas Tariff

June 21, 1995.

Take notice that on June 15, 1995, pursuant to and in compliance with the Commission's May 25, 1995 order in Docket No. RP95–252–000, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets:

Third Revised Sheet No. 464
Original Sheet No. 464A
Third Revised Sheet No. 465
Third Revised Sheet No. 467

Texas Eastern states that the tariff sheets submitted herewith reflect the revisions to Texas Eastern's capacity release provisions and will require Texas Eastern to: (1) Post capacity for bidding that was released in the prior month to the same prearranged shipper at a discounted price and (2) permit release transactions to the same prearranged shipper at less than the maximum rate during two or more consecutive months which doesn't utilize the same capacity or overlapping capacity.

Texas Eastern requests that the above referenced tariff sheets become effective on July 15, 1995.

Texas Eastern states that copies of the filing were served on firm customers of Texas Eastern and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before June 28, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–15641 Filed 6–26–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP95–346–000 and RP95–274–001]

Transcontinental Gas Pipe Line Corporation; Notice of Tariff Filing

June 21, 1995.

Take notice that on June 16, 1995, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1. The proposed effective date of the revised tariff sheet are May 4, 1995 and July 10, 1995.

Transco states that the purpose of the instant filing is to revise Transco's capacity release tariff provisions set forth in Section 42 of the General Terms and Conditions of its Volume No. 1 Tariff to comply with Order Nos. 577 and 577–A. On May 3, 1995, Transco filed tariff sheets in Docket No. RP95–274 (May 3 Filing) to comply with Order No. 577. On June 1, 1995 (June 1 Order) the Commission issued an order accepting the May 3 Filing, subject to Transco modifying Sections 42.4 and 42.5 as discussed in the order. Transco has included revised tariff sheets proposed to be effective May 4, 1995, reflecting the changes required by the Commission's June 1 Order.

Additionally, Transco is submitting in the instant filing revised tariff sheets proposed to be effective July 10, 1995 to comply with Order No. 577–A issued May 31, 1995 in Docket No. RM95–5–001.

Transco states that it is serving copies of the instant filing to its customers, State commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 28, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–15642 Filed 6–26–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–12–29–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

June 21, 1995.

Take notice that on June 16, 1995, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, First Revised Twenty Second Revised Fourth Revised Sheet No. 50 which tariff sheet is proposed to be effective April 1, 1995.

Transco states that the purpose of the instant filing is to track a rate change attributable to transportation service purchased from Texas Gas Transmission Corporation (Texas Gas) under its Rate Schedule FT, which service underlies the service provided by Transco under its Rate Schedule FT–NT. The tracking filing is being made pursuant to Section 4 of Transco's Rate Schedule FT–NT.

Included in Appendix A attached to the filing is an explanation of the rate change and details regarding the computation of the revised FT–NT rates.

Transco states that copies of the filing are being mailed to each of its FT–NT customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 28, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–15643 Filed 6–26–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–343–000]

Trunkline Gas Company; Notice of Proposed Changes in FERC Gas Tariff

June 21, 1995.

Take notice that on June 14, 1995, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1 the following revised tariff sheet proposed to be effective July 8, 1995:

Third Revised Sheet No. 191

Trunkline states that this filing is being made in compliance with the Commission's Order Granting Rehearing (Order No. 577–A) issued May 31, 1995 in Docket No. RM95–5–001. Specifically, the tariff sheet reflects the revision in the term of capacity releases at less than maximum rate that are exempt from advance posting and bidding requirements by substituting ''31 days'' for ''calendar month.''

Trunkline states that copies of this filing are being mailed to firm shippers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 28, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–15644 Filed 6–26–95; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Notice of Cases Filed During the Week of May 8 Through May 12, 1995

During the Week of May 8 through May 12, 1995, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: June 16, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of May 8 through May 12, 1995]

Date	Name and location of applicant	Case No.	Type of submission
5/8/95	Oak Ridge Operations Office, Oak Ridge, Tennessee.	VSO–0035	Request for Hearing under 10 C.F.R. Part 710. If granted: An individual whose security clearance was suspended by the Oak Ridge Operations Office would receive a hearing under 10 C.F.R. Part 710.
5/9/95	Major Brands, Bethesda, Maryland	RR321–179	Request for Modification/Rescission in the Texaco Refund Proceeding. If granted: The March 9, 1995 Decision and Order, Case No. RF321–16972, issued to Major Brands would be modified regarding the firm's application for refund submitted in the Texaco Refund Proceeding.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of May 8 through May 12, 1995]

Date	Name and location of applicant	Case No.	Type of submission
5/10/95	Richard M. Ross, Lauderhill, Florida	VFA–0041	Appeal of an Information Request Denial. If granted: The April 6, 1995 Freedom of Information Request Denial issued by the DOE Oakland Operations Office would be rescinded, and Richard M. Ross would receive access to certain DOE information.
5/11/95	Albuquerque Operations Office, Albuquerque, New Mexico.	VSO–0036	Request for Hearing under 10 C.F.R. Part 710. If granted: An individual whose security clearance was suspended by the Albuquerque Operations Office would receive a hearing under 10 C.F.R. Part 710.
5/12/95	Gasolinera Melendez, Inc., San Juan, Puerto Rico.	RR321–180	Request for Modification/Rescission in the Texaco Refund Proceeding. If granted: The April 18, 1995 Decision and Order, Case No. RF321–2109, issued to Gasolinera Melendez, Inc. would be modified regarding the firm's application for refund submitted in the Texaco Refund Proceeding.
5/12/95	Richard M. Ross, Lauderhill, Florida	VFA–0042	Appeal of an Information Request Denial. If granted: The April 6, 1995 Freedom of Information Request Denial issued by the Oakland Operations Office would be rescinded, and Richard M. Ross would receive access to certain DOE information.

REFUND APPLICATIONS RECEIVED

[Week of May 8 to May 12, 1995]

Date received	Name of refund proceeding/name of refund application	Case No.
5/8 thru 5/12/95	Crude Oil Refund Applications	RG272–199 thru RG272–231.

[FR Doc. 95–15704 Filed 6–26–95; 8:45 am]

BILLING CODE 6450–01–P

Notice of Cases Filed During the Week of May 1 Through May 5, 1995

During the Week of May 1 through May 5, 1995, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: June 16, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of May 1 through May 5, 1995]

Date	Name and location of applicant	Case No.	Type of submission
5/2/95	Dalco Petroleum, Inc., W. Darryl Zang, and Louis Porter, Washington, DC.	VEF–0016	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to C.F.R., Part 205, Subpart V, to distribute funds received from Dalco Petroleum, Inc., W. Darryl Zang, and Louis Porter pursuant to bankruptcy court-approved settlements between these parties and DOE.
5/2/95	U.S. Solar Roof, Washington, DC.	VFA–0037	Appeal of an Information Request Denial. If granted: The April 6, 1995 Freedom of Information Request Denial issued by the Office of Photovoltaic Technology Division would be rescinded, and U.S. Solar Roof would receive access to certain Department of Energy information.
5/3/95	Rocky Flats Field Office, Golden, Colorado	VSO–0032	Request for Hearing under 10 C.F.R. Part 710. If granted: An individual whose security clearance was suspended by the Rocky Flats Field Office would receive a hearing under 10 C.F.R. Part 710.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of May 1 through May 5, 1995]

Date	Name and location of applicant	Case No.	Type of submission
5/4/95	Better Roads, Inc., Santa Barbara, California.	RR272–200	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The April 6, 1995 Dismissal, Case No. RF272–90949, issued to Better Roads, Inc. would be modified regarding the firm's application for refund submitted in the Crude Oil Refund Proceeding.
5/4/95	Elizabeth H. Donnelly, Henderson, Nevada	VFA–0039	Appeal of an Information Request Denial. If granted: The April 3, 1995 Freedom of Information Request Denial issued by the Office of Public Affairs would be rescinded, and Elizabeth H. Donnelly would receive access to certain Department of Energy Information.
5/4/95	Gayle M. Adams, Spokane, Washington	VFA–0040	Appeal of an Information Request Denial. If granted: The April 7, 1995 Freedom of Information Request Denial issued by the Richland Operations Office would be rescinded, and Gayle M. Adams would receive access to certain Department of Energy information.
5/4/95	J. Eileen Price, Fort Collins, Colorado	VFA–0038	Appeal of an Information Request Denial. If granted: The February 27, 1995 Freedom of Information Request Denial issued by the Western Area Power Administration would be rescinded, and J. Eileen Price would receive access to certain Department of Energy Information.
5/4/95	Louisiana, Baton Rouge, Louisiana	VEG–0001	Petition for Special Redress. If granted: The Office of Hearings and Appeals would review the use of the Stripper Well Settlement Agreement funds to establish and staff a ''Louisiana Core Repository, Research and Information Center.''
5/5/95	Oak Ridge Operations Office, Oak Ridge, Tennessee.	VSO–0034	Request for Hearing under 10 C.F.R. Part 710. If granted: An individual whose security clearance was suspended by the Oak Ridge Operations Office would receive a hearing under 10 C.F.R. Part 710.
5/5/95	Rocky Flats Field Office, Golden, Colorado	VSO–0033	Request for Hearing under 10 C.F.R. Part 710. If granted: An individual whose security clearance was suspended by the Rocky Flats Field Office would receive a hearing under 10 C.F.R. Part 710.

REFUND APPLICATIONS RECEIVED

[Week of May 1 to May 5, 1995]

Date received	Name of refund proceeding/name of refund application	Case No.
04/27/95	Parker K. Bailey & Sons, Inc	RC272–290.
5/1/95 thru 5/5/95	Crude Oil Refund Applications	RG272–177 thru RG272–198.
5/1/95	McKelvey Trucking Co	RC272–291.
5/2/95	Union Carbide Corp	RF345–36.
5/5/95	Joe Long's Texaco	RF321–21065.
5/5/95	Elm Garage, Inc	RF321–21066.
5/5/95	Elm Garage, Inc	RF321–21067.
5/5/95	East Main Street	RF321–21068.

[FR Doc. 95–15705 Filed 6–26–95; 8:45 am]

BILLING CODE 6450–01–P 3

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–81023A; FRL–4962–3]

TSCA Chemical Substance Inventory Removal of 36 Incorrectly Reported Chemical Substances from the TSCA Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In an earlier notice published in the **Federal Register**, EPA announced its intent to remove from the Toxic Substances Control Act (TSCA) Chemical Substance Inventory 38 chemical substances which were believed to have been incorrectly reported and listed. Nine comments were received in response to the October 24, 1994 notice. EPA has determined that two of the chemical substances mentioned in the October 24, 1994 notice have been manufactured or imported for distribution in commerce prior to the date of the notice. The remaining 36 chemical substances were incorrectly reported or identified and listed on the Inventory. The 36 chemical substances listed in this document are deleted from the TSCA Inventory as of June 27, 1995.

EFFECTIVE DATE: The 36 chemical substances listed in this document are deleted from the TSCA Inventory as of June 27, 1995.

ADDRESSES: A record of the nonconfidential versions of the comments is available for viewing and photocopying in the TSCA

Nonconfidential Information Center, Rm. NE Mall B607, 401 M St., SW., Washington, DC. Documents may be viewed from 12 noon to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551, e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

EPA announced in the **Federal Register** of October 24, 1994 (59 FR 53461), its intent to remove from the Toxic Substances Control Act (TSCA) Chemical Substance Inventory 38 chemical substances which were believed to have been incorrectly reported and listed. Prior to the October 24, 1994 notice, persons who had originally reported the 38 chemical substances informed EPA that the chemical identities they reported to the Agency and included on the Inventory were incorrect. The corrected identities for these 38 chemical substances have been provided by the original submitters and added to the Agency's Master Inventory File. EPA reviewed each of these 38 chemical substances, as originally reported, to determine whether any other person had also reported the same chemical substance for the Inventory. No other manufacturers were found at the time. Therefore, in accordance with the established EPA policy that an erroneously or incorrectly reported chemical substance should be removed from the Inventory, EPA announced its intent to remove these chemical substances from the Inventory in the **Federal Register** of October 24, 1994.

The **Federal Register** of October 24, 1994, solicited public comments on the proposed removal action. EPA was specifically interested in knowing whether any of the 38 chemical substances had been manufactured, imported, or processed for TSCA commercial purposes other than research and development, as defined in the Inventory Reporting Regulation (40 CFR 710.2), by anyone between the period of January 1, l975 through October 24, 1994. EPA was also interested in knowing whether any person could show that any of the 38 chemical substances could have been properly reported for the Inventory. EPA also solicited comments from anyone who believed that any of the chemical substances should not be removed from the TSCA Inventory for any reason.

EPA received nine comments in response to the October 24, 1994 notice. The comments requested that two of the substances, those identified by Chemical Abstract Service Registry Numbers (CASRNs) 5153–63–9 and 26184–07–6, not be removed from the Inventory.

II. Substances Not To Be Removed

The Agency decided to retain CASRNs 5153–63–9 and 26184-07-6 on the Inventory because several of the submitters of the comments concerning these two chemical substances provided evidence indicating that these substances have been in commercial production or importation prior to October 24, 1994.

The CASRNs and Chemical Abstracts Service (CAS) Index Names of the aforementioned two chemical substances not to be removed from the TSCA Inventory are as follows:

CASRN	CAS Index Name
5153–63–9	Acetic acid, compd. with pyridine (1:1)
26184–07–6	2-Propenoic acid, 2-methyl-, polymer with butyl 2-methyl-2-propenoate, butyl 2-propenoate and methyl 2-methyl-2-propenoate

III. Substances That Are Removed From the Inventory

The Agency concluded that the remaining 36 chemical substances were not manufactured, imported, or processed for commercial purposes between January 1, l975 and October 24, 1994, and thus are not eligible for continued inclusion on the Inventory. Therefore, Premanufacture Notification (PMN) requirements of section 5(a) of TSCA would apply to future manufacture or import of any of these 36 chemical substances. The 36 chemical substances to be removed from the Inventory are listed below in ascending CASRN sequence, and by their corresponding CAS Index Names:

Chemical Substances Removed from the TSCA Inventory

CASRN	CAS Index Name
6178–32–1	Oxirane, [(4-nonylphenoxy)methyl]-
6359–62–2	1H-Pyrazole-3-carboxylic acid, 4-[(2,4-dimethyl-6-sulfophenyl)azo]-4,5-dihydro-5-oxo-1-(4-sulfophenyl)-, trisodium salt
30377–70–9	1H-Benzimidazolium, 5-chloro-2-[3-[5-chloro-3-ethyl-1,3-dihydro-1-(3-sulfopropyl)-6-(trifluoromethyl)-2H-benzimidazol-2-ylidene]-1-propenyl]-3-ethyl-1-(3-sulfopropyl)-6-(trifluoromethyl)-, inner salt
40795–41–3	1,2-Benzenedicarboxylic acid, 4-[(4-aminophenyl)hydroxymethyl]-,monomethyl ester
56619–23–9	Benzenesulfonic acid, hydroxy-, monosodium salt, polymer with formaldehyde and urea
65072–14–2	Hexanedioic acid, dimethyl ester, polymer with 1,2-ethanediol and 1,3-isobenzofurandione, benzoate
65733–77–9	Formaldehyde, polymer with 1,3-benzenediol, 4-(1,1-dimethylethyl)phenol and 4,4'-(1-methylethylidene)bis[phenol]
67827–62–7	1,2-Propanediol, 3,3'-[[4-[(2-chloro-4,6-dinitrophenyl)azo]-1-naphthalenyl]imino]bis-
67923–97–1	2-Propenoic acid, 2-methyl-, methyl ester, polymer with ammonium 2-methyl-2-propenoate and ethyl 2-propenoate

Chemical Substances Removed from the TSCA Inventory

CASRN	CAS Index Name
67989–80–4	1,3-Benzenedicarboxylic acid, polymer with 2-(dimethylamino)ethanol, 2,2-dimethyl-1,3-propanediol, 2,2-dimethylpropanoic acid and nonanedioic acid
68002–78–8	Fatty acids, C16-18 and C18-unsatd., triesters with trimethylolpropane
68479–21–0	Poly(oxy-1,2-ethanediyl), α-hydro-ω-hydroxy-, ether with N-[2-[bis(2-hydroxyethyl)methylammonio]ethyl]-N,N'-bis(2-hydroxyethyl)-N'-[2-hydroxy-3-(9-octadecenyloxy)propyl]-N,N'-dimethyl-1,2-ethanediaminium tris(methyl sulfate) (4:1), (Z)-
68551–46–2	Carboxylic acids, C6-18 and C9-15-di-, polymers with adipic acid, ethylene glycol, glutaric acid and succinic acid, 2-ethylhexyl esters
68607–79–4	Silica gel, reaction products with chlorodimethyloctylsilane
68610–78–6	Acetic acid, anhydride, reaction products with boron trifluoride and 1,5,9-trimethyl-1,5,9-cyclododecatriene
68814–84–6	Fatty acids, tall-oil, polymers with isophthalic acid and 1,3,5-tris(2-hydroxyethyl)-1,3,5-triazine-2,4,6(1H,3H,5H)-trione
68958–73–6	Hexanedioic acid, polymer with 1,6-diisocyanato-2,2,4-trimethylhexane, oxybis[propanol] and α,α',α''-1,2,3-propanetriyltris[ω-hydroxypoly[oxy(methyl-1,2-ethanediyl)]]
70528–75–5	Cashew, nutshell liq., polymer with formaldehyde, linseed oil and phenol
71243–48–6	Amines, C14-18 and C16-18-unsatd. alkyl, ethoxylated, compds. with polyethylene glycol mono(nonylphenyl) ether phosphate
71735–58–5	Chromate(2-), [1-[(5-chloro-2-hydroxyphenyl)azo]-2-naphthalenolato(2-)][3-hydroxy-4-[(2-hydroxy-3,5-dinitrophenyl)azo]-7-[(4-methoxyphenyl)amino]-2-naphthalenesulfonato(3-)]-, disodium
71735–65–4	Cuprate(4-), [8-hydroxy-7-[[2-hydroxy-7-sulfo-6-[[4-[(2,5,6-trichloro-4-pyrimidinyl)amino]phenyl]azo]-1-naphthalenyl]azo]-1,3,6-naphthalenetrisulfonato(6-)]-, tetrasodium
72245–32–0	Propanoic acid, 2-hydroxy-, compds. with 2-(dimethylamino)ethanol-hexyl [(2-isocyanato-1,4,4-trimethylcyclopentyl)methyl]carbamate adduct
72479–99–3	Decanoic acid, mixed pentaesters with octadecanoic acid and triglycerol
73138–55–3	Fatty acids, tall-oil, polymers with glycerol, phthalic anhydride, safflower oil and trimethylolpropane
73138–84–8	Safflower oil, polymer with benzoic acid, glycerol, phthalic anhydride and trimethylolpropane
79771–00–9	Safflower oil, polymer with benzoic acid, bisphenol A, epichlorohydrin and styrene
79771–01–0	Safflower oil, polymer with benzoic acid, bisphenol A and epichlorohydrin
93905–47–6	1,4-Benzenedicarboxylic acid, dimethyl ester, polymer with 1,2-ethanediol, distn. residues
102923–79–5	Fatty acids, C18-unsatd., dimers, polymers with dicyclopentadiene, diethylene glycol, isophthalic acid, maleic anhydride and propylene glycol
104133–74–6	Siloxanes and Silicones, di-Me, polymers with 3-hydroxy-2,2-dimethylpropyl 3-hydroxy-2,2-dimethylpropanoate, isophthalic acid, maleic anhydride, Ph silsesquioxanes and trimethylolpropane
105883–53–2	1,2,3-Propanetriol, polymer with 1,3-diisocyanatomethylbenzene, 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, methyloxirane and oxirane, hydrolyzed, amine-terminated
115271–31–3	Propanoic acid, 3-hydroxy-2-(hydroxymethyl)-2-methyl-, polymer with N-(2-aminoethyl)-1,2-ethanediamine, 2,2-dimethyl-1,3-propanediol, diphenyl carbonate, 1,2-ethanediamine, 1,6-hexanediol, 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane and 1,1'-methylenebis[4-isocyanatocyclohexane], polyethylene-polypropylene glycol mono-Bu ether-blocked, compds. with triethylamine
116265–70–4	9-Octadecenoic acid (Z)-, reaction products with formaldehyde, phenol polybutenyl derivs., tetraethylenepentamine and triethylenetetramine
125804–20–8	2-Propenoic acid, 2-methyl-, 3-(trimethoxysilyl)propyl ester, reaction products with iso-Pr alc., 2-methyl-2-propanol and silica
135313–74–5	2-Propenoic acid, ethyl ester, homopolymer, C>14-alkyl docosylstearyl esters
135429–20–8	Dodecanedioic acid, polymer with carbonic dichloride, 4,4'-(1-methylethylidene)bis[phenol] and 4-(1-methyl-1-phenylethyl)phenol

Accordingly, the 36 chemical substances listed above are deleted from the TSCA Inventory as of June 27, 1995.

List of Subjects

Environmental protection.

Dated: June 20, 1995.

Larry E. Longanecker,

Acting Director, Economics, Exposure and Technology Division, Office of Pollution Prevention and Toxics.

[FR Doc. 95–15740 Filed 6–26–95; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[DA 95–1284]

Reconsideration of Denial of Equipment Authorization

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Commission is seeking comment on a petition requesting reconsideration of the denial of equipment authorization for cable system terminal devices. This action is taken pursuant to 47 CFR Section 1.115 in order to obtain a complete record prior to responding to the petition.

DATES: Oppositions to the petition may be filed on or before June 26, 1995. Replies to oppositions may be filed on or before July 6, 1995.

FOR FURTHER INFORMATION CONTACT: Richard Fabina, Office of Engineering and Technology, (301) 725–1585, ext. 220.

SUPPLEMENTARY INFORMATION: The Office of Engineering and Technology (OET) has received a Petition for Reconsideration and Request for Referral to the Commission regarding denial of applications filed by Everquest, Inc. for certification of five different models of cable system terminal devices. The petition is available for public inspection during normal business hours in OET's Technical Reference Library, 2000 M Street NW., Room 230, Washington, DC and in the Applications Processing Branch at the FCC Laboratory, 7435 Oakland Mills Road, Columbia, MD 21046. Copies of the petition may also be obtained from International Transcription Service, Inc., (202) 857–3800.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–15674 Filed 6–26–95; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of Information Collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review for the information collection system identified below.

Type of Review: Extension of expiration date without any change in substance or method of collection.

Title: Real Estate Lending Standards.

Form Number: N/A.

OMB Number: 3064–0112.

Expiration Date of Current OMB Clearance: December 31, 1995.

Frequency of Response: On occasion.

Respondents: Insured depository institutions.

Number of Respondents: 7,400.

Total Annual Responses: 7,400.

Total Annual Burden Hours: 148,000.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Paperwork Reduction Project 3064–0112, Washington, D.C. 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before August 28, 1995.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: Insured depository institutions must establish maximum loan-to-value ratios for real estate lending, as mandated by section 18(o) of the Federal Deposit Insurance Act (12 U.S.C. 1828).

Dated: June 21, 1995.

Federal Deposit Insurance Corporation.

Steven F. Hanft,

Assistant Executive Secretary (Administration).

[FR Doc. 95–15697 Filed 6–26–95; 8:45 am]

BILLING CODE 6714–01–M

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of Information Collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review for the information collection system identified below.

Type of Review: Extension of expiration date without any change in substance or method of collection.

Title: Financial Report.

Form Number: FDIC 6200/06.

OMB Number: 3064–0006.

Expiration Date of Current OMB Clearance: February 29, 1996.

Frequency of Response: On occasion.

Respondents: Directors or officers of proposed or operating financial institutions applying for Federal deposit insurance as a state-chartered bank or savings association.

Number of Respondents: 2,000.

Total Annual Responses: 2,000.

Total Annual Burden Hours: 4,000.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Paperwork Reduction Project 3064–0006, Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before August 28, 1995.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The FDIC is required by statute to evaluate the general character and financial condition of certain individuals involved in the management or control of depository institutions. Form 6200/06 is used by each individual director or officer of a proposed or operating financial institution applying for Federal deposit insurance, by each individual proposing to acquire control of an insured state nonmember bank, and by each proposed new director or proposed new senior executive officer of an insured state nonmember bank which (a) became insured or has undergone a change of control within the past two years or (b) is not in compliance with the applicable capital requirements or is otherwise in a troubled condition.

Dated: June 21, 1995.

Federal Deposit Insurance Corporation.

Steven F. Hanft,

Assistant Executive Secretary (Administration).

[FR Doc. 95–15696 Filed 6–26–95; 8:45 am]

BILLING CODE 6714–01–M

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of Information Collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review for the information collection system identified below.

Type of Review: Extension of expiration date without any change in substance or method of collection.

Title: Notification of Addition of Directors and Senior Executive Officers of Certain Depository Institutions.

Form Number: FDIC 6810/01.

OMB Number: 3064–0097.

Expiration Date of Current OMB Clearance: February 29, 1996.

Frequency of Response: On occasion.

Respondents: Certain insured state nonmember banks.

Number of Respondents: 1,250.

Total Annual Responses: 1,250.

Total Annual Burden Hours: 650.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Paperwork Reduction Project 3064–0097, Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before August 28, 1995.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 requires an insured depository institution to notify the appropriate Federal banking agency of the proposed addition of any individual to the board of directors or the employment of any individual as a senior executive officer of such institution at least thirty days before such addition or employment becomes effective, if the insured depository institution (a) became insured or has undergone a change in control within the past two years, or (b) is not in compliance with the applicable capital requirements or is otherwise in a troubled condition. The FDIC implements this statutory mandate through the Form 6810/01.

Dated: June 21, 1995.

Federal Deposit Insurance Corporation.

Steven F. Hanft,

Assistant Executive Secretary (Administration).

[FR Doc. 95–15695 Filed 6–26–95; 8:45 am]

BILLING CODE 6714–01–M

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of Information Collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review for the information collection system identified below.

Type of Review: Extension of expiration date without any change in substance or method of collection.

Title: Application to Participate in a Conversion Transaction.

Form Number: N/A.

OMB Number: 3064–0098.

Expiration Date of Current OMB Clearance: March 31, 1996.

Frequency of Response: On occasion.

Respondents: Insured depository institutions wishing to transfer deposits between the Savings Association Insurance Fund (''SAIF'') and the Bank Insurance Fund (''BIF''), or vice versa.

Number of Respondents: 10.

Total Annual Responses: 10.

Total Annual Burden Hours: 30.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Paperwork Reduction Project 3064–0098, Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before August 28, 1995.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: Insured depository institutions are required to submit a letter application to the FDIC to obtain consent before participating in a conversion transaction involving the transfer of deposits between the SAIF and the BIF, or vice versa.

Dated: June 21, 1995.

Federal Deposit Insurance Corporation.

Steven F. Hanft,

Assistant Executive Secretary (Administration).

[FR Doc. 95–15694 Filed 6–26–95; 8:45 am]

BILLING CODE 6714–01–M

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of Information Collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review for the information collection system identified below.

Type of Review: Extension of expiration date without any change in substance or method of collection.

Title: Monthly Consolidated Foreign Currency Report of Banks in United States.

Form Number: FFIEC 035.

OMB Number: 3064–0105.

Expiration Date for Current OMB Clearance: December 31, 1995.

Frequency of Response: Monthly.

Respondents: State nonmember banks with more than $1 billion in commitments to purchase foreign currencies and U.S. dollar exchange.

Number of Respondents: 4.

Total Annual Responses: 48.

Total Annual Burden Hours: 480.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Paperwork Reduction Project 3064–0105, Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before August 28, 1995.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: U.S. banks with more than $1 billion in commitments to purchase foreign currencies and U.S. dollar exchange must file monthly reports with their regulators. The reports help monitor foreign exchange exposures and identify changing market practices and bank reactions to disruptions in exchange markets.

Dated: June 21, 1995.

Federal Deposit Insurance Corporation.

Steven F. Hanft,

Assistant Executive Secretary (Administration).

[FR Doc. 95–15693 Filed 6–26–95; 8:45 am]

BILLING CODE 6714–01–M

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of Information Collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review for the information collection system identified below.

Type of Review: Extension of expiration date without any change in substance or method of collection.

Title: Procedures for Monitoring Bank Secrecy Act Compliance.

Form Number: N/A.

OMB Number: 3064–0087.

Expiration Date of Current OMB Clearance: March 31, 1996.

Frequency of Response: On occasion.

Respondents: Insured state nonmember banks.

Number of Respondents: 8,400.

Total Annual Responses: 8,400.

Total Annual Burden Hours: 4,200.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Paperwork Reduction Project 3064–0087, Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before August 28, 1995.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: Insured state nonmember banks are required to establish and maintain written procedures to assure and monitor compliance with the Bank Secrecy Act (31 U.S.C. 5311 *et seq.*) and Department of Treasury regulations at 31 CFR 103.

Dated: June 21, 1995.

Federal Deposit Insurance Corporation.

Steven F. Hanft,

Assistant Executive Secretary (Administration).

[FR Doc. 95–15692 Filed 6–26–95; 8:45 am]

BILLING CODE 6714–01–M

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of Information Collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review for the information collection system identified below.

Type of Review: Extension of expiration date without any change in substance or method of collection.

Title: Activities and Investments of Insured State Banks.

Form Number: N/A.

OMB Number: 3064–0111.

Expiration Date of Current OMB Clearance: August 31, 1995.

Frequency of Response: On occasion.

Respondents: Insured state nonmember banks wishing to engage in activities or make investments not permissible for national banks or subsidiaries of national banks.

Number of Respondents: 10.

Total Annual Responses: 10.

Total Annual Burden Hours: 160.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Paperwork Reduction Project 3064–0111, Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before August 28, 1995.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: This collection of information establishes application procedures whereby an insured state bank may request the FDIC's consent to engage in activities or make investments not permissible for national banks or subsidiaries of national banks.

Dated: June 21, 1995.

Federal Deposit Insurance Corporation.

Steven F. Hanft,

Assistant Executive Secretary (Administration).

[FR Doc. 95–15691 Filed 6–26–95; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Guidelines for Relying on State Examinations

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Notice and final guidelines.

SUMMARY: The Federal Financial Institutions Examination Council (FFIEC) announces the adoption of its Guidelines for Relying on State Examinations pursuant to section 349 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI Act), codified at 12 U.S.C. 1820(d)(9). This section requires the FFIEC to issue guidelines establishing standards for the purpose of determining the acceptability of State reports of examination under section 10(d)(3) of the Federal Deposit Insurance Act (FDI Act), 12 U.S.C. 1820(d)(3). Under section 10(d)(3), a Federal banking agency may conduct an annual, on-site examination of an insured depository institution in alternate 12-month periods (except those insured institutions with total assets of less than $250 million for which an 18-month examination cycle is permitted) if the Federal banking agency determines that a State examination of that institution

conducted during the intervening period is adequate. Section 349 of the CDRI Act states that the standards issued by the FFIEC are to be used at the discretion of the appropriate Federal banking agency.

EFFECTIVE DATE: These guidelines are effective on June 27, 1995.

FOR FURTHER INFORMATION CONTACT: *Board:* Frederick M. Struble, Associate Director, (202/452–3794), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452–3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

FDIC: Daniel M. Gautsch, Examination Specialist, (202/898–6912), Office of Policy, Division of Supervision, or Ken A. Quincy, Section Chief, (202/942–3083), Consumer Compliance & Analysis Branch, Division of Compliance and Consumer Affairs. For legal issues, Lisa R. Chavarria, Attorney, (202/898–6891), Supervision and Legislation Branch, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OCC: Bill Morris, National Bank Examiner, (202/874–5190), Office of the Chief National Bank Examiner, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

OTS: Scott M. Albinson, Special Assistant to the Director of Supervision, (202/906–7984), Supervision, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: The supervisory divisions of the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System and the Office of Thrift Supervision (Federal banking agencies) responsible for the examination of state-chartered, insured depository institutions, and the branches and agencies of foreign banks that have been chartered by the States have a long history of coordinating with the State banking departments [1] in fulfilling a mutual goal of promoting a safe and sound banking system.[2] It is recognized that this close cooperation between the Federal and State regulators promotes efficiency in the examination process, reduces the regulatory burden on state-chartered, insured depository institutions, and improves the supervisory process.

The Federal and State banking agencies have worked together, to varying degrees, in the following areas:

- Conducting alternate, joint and concurrent safety and soundness examinations of insured depository institutions and of the branches and agencies of foreign banks that have been chartered by the States.
- Processing safety and soundness examination reports and applications on a timely basis.
- Using common examination report and application forms.
- Developing and issuing informal (e.g., board resolutions, memoranda of understanding or other similar agreements) and formal enforcement actions.
- Exchanging supervisory information.
- Offering Federal agency training programs to State Examiners.
- Providing access to the Federal agency data bases.

The Federal banking agencies intend to continue these cooperative efforts to the maximum extent possible. It is recognized, however, that the adequacy of State budgeting, examiner staffing, and training are important factors to enhancing Federal and State coordination. Currently, the Federal banking agencies, individually, have entered into formal or informal arrangements or working agreements with most State banking departments. These working agreements or informal arrangements generally address the following areas:

- The number of state-chartered, insured institutions to be examined on an alternating basis by the State banking department and by the Federal banking agency.
- The frequency of safety and soundness examinations.
- The type of examinations to be conducted (independent, joint, or concurrent) by each agency.
- The pre-examination procedures to be performed.
- The responsibilities of each agency for processing reports of examination.
- The responsibilities of each agency for conducting specialty examinations (compliance, information systems, trust, etc.).
- The procedures for coordinating informal and formal enforcement actions.
- The procedures for processing joint applications.
- The procedures for sharing supervisory information. These working agreements or informal arrangements are structured to permit both Federal and State agencies the flexibility to conduct an independent examination subject only to notification to the other party. Generally, only institutions rated ''1'' or ''2'' are examined on an alternating basis allowing for a reasonable interval between examinations. The appropriate Federal banking agency and the State banking department periodically meet and coordinate examination schedules.[3]

A hallmark of the successful program to date has been this flexibility to tailor cooperation to the particulars of each State and to the specifics of individual banks within a State, plus the reality of changing circumstances at both the Federal and the State levels. The FFIEC guidelines strive to maintain that flexibility.

Therefore, the FFIEC issues the following guidelines pursuant to 12 U.S.C. 1820(d)(9):

GUIDELINES FOR RELYNG ON STATE EXAMINATIONS: The Federal banking agencies will accept and rely on State reports of examination in all cases in which it is determined that State examinations enable the Federal banking agencies to effectively carry out their supervisory responsibilities. The following criteria may be considered, in whole or in part, by a Federal banking agency when determining the acceptability of a State report of examination under section 10(d) of the Federal Deposit Insurance Act:

- The completeness of the State examination report. The State report of examination of a state-chartered, insured depository institution or a state-chartered branch or agency of a foreign bank should contain sufficient information to permit a reviewer to make an independent determination on the overall condition of the institution as well as each component factor and composite rating assigned under the ''Uniform Financial Institutions Rating System'' used for insured depository institutions and commonly referred to as the ''CAMEL'' rating system or the ROCA rating system used for branches and agencies of foreign banks.
- The adequacy of documentation maintained routinely by State examiners

[1] The term ''State banking department'' includes any separate thrift department or division of a State.

[2] The Office of the Comptroller of the Currency is not responsible for the supervision and regulation of any state-chartered, insured depository institutions.

[3] In 1992, the FDIC and the Federal Reserve, individually, entered into joint resolutions with the Conference of State Bank Supervisors designed to encourage the negotiation and formation of working agreements with the State banking departments. The objective of these agreements is to foster closer supervisory cooperation between the State departments and the FDIC or the Federal Reserve. The working agreements generally identify those state-chartered banks that will be examined on an alternating basis, and other banks that will be examined on a joint or concurrent basis, if practicable.

to support observations made in examination reports.

- The ability over time of a State banking department to achieve examination objectives. At a minimum, the Federal banking agencies will consider the adequacy of State budgeting, examiner staffing and training, and the overall review and follow-up examination process of a State banking department. Accreditation of a State banking department by the Conference of State Bank Supervisors is among the factors that also will be considered.
- The adequacy of any formal or informal arrangement or working agreement between a State banking department and a Federal banking agency.

The Federal banking agencies, as part of their routine review of State examination reports, will assess the quality and scope of the reports to determine whether they continue to meet the above general criteria. The Federal banking agencies retain the option in cases in which a State examination report appears insufficient or the condition of an insured institution, as indicated in the examination report or other sources, appears to be seriously deteriorating, to conduct a follow-up examination.

The appropriate Federal banking agency and State banking department will continue to share, discuss and work to resolve any problems or concerns regarding the acceptability of each other's work or the operation of these guidelines and the alternating examination program, as well as other issues of mutual interest.

Dated: June 22, 1995.

Joe M. Cleaver,

Executive Secretary/Federal Financial institutions Examination Council.

[FR Doc. 95–15734 Filed 6–26–95; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–010776–095.

Title: Asia North America Eastbound Rate Agreement.

Parties:

American President Lines, Ltd.
Hapag-Lloyd Aktiengesellschaft
Kawasaki Kisen Kaisha, Ltd.
A.P. Moller-Maersk Line
Mitsui O.S.K. Lines, Ltd.
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha Line
Orient Overseas Container Line, Inc.
Sea-land Service, Inc.

Synopsis: The proposed amendment modifies Article 5.3(f), pertaining to the Indian Subcontinent Trade, to clarify that certain provisions of the Agreement will now apply to that trade.

Agreement No.: 203–011504.

Title: Columbus/Alianca/Ivaran Agreement.

Parties:

A/S Ivarans Rederi d/b/a Ivaran Lines
Hamburg-Sudamerikanische Eggert & Amsinck d/b/a/ Columbus Line
Empresa De Navegacao Alianca S/A d/b/a Alianca

Synopsis: The proposed Agreement authorizes the parties to consult and agree upon the deployment and utilization of vessels, to charter space from one another, and to rationalize sailings in the trade between U.S. Atlantic Coast ports and points and ports and points in Brazil, Uruguay, Argentina, Paraguay and Bolivia. In addition, the parties may discuss, exchange information, agree, and establish rates, charges, rules and practices related to their services. Adherence to any agreement reached on rates is voluntary.

Dated: June 21, 1995.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 95–15668 Filed 6–26–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

A. E. Bancorp, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than July 21, 1995.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. A. E. Bancorp, Buffalo Grove, Illinois, a *de novo*, bank; to become a bank holding company by acquiring 100 percent of the voting shares of American Enterprise Bank, Buffalo Grove, Illinois, (in organization).

2. Libertyville Bancorp, Inc., Lake Forest, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Libertyville Bank & Trust Company, Libertyville, Illinois (in organization).

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Community First Financial Group, Inc., English, Indiana; to acquire at least 50.01 percent of the voting shares of Peninsula Banking Group, Inc., Rolling Hills Estates, California, and thereby indirectly acquire at least an additional 15.60 percent of the voting shares of Peninsula National Bank, Rolling Hills Estates, California; and 100 percent of the voting shares of Bay Cities National Bank, Redondo Beach, California.

In connection with this application, Peninsula Banking Group, Inc., Rollings Hills, California; also has applied to become a bank holding company by acquiring 100 percent of the voting shares of Peninsula National Bank, Rolling Hills Estates, California, and 100 percent of the voting shares of Bay

Cities National Bank, Redondo Beach, California.

Board of Governors of the Federal Reserve System, June 21, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–15669 Filed 6–26–95; 8:45 am]

BILLING CODE 6210–01–F

The Bank of New York Company, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than July 11, 1995.

A. Federal Reserve Bank of New York (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. The Bank of New York Company, Inc., New York, New York; to acquire through its subsidiary, The Bank of New York Trust Company of California, Los Angeles, California, certain trust assets of BankAmerica Corporation and its subsidiaries, and thereby engage in trust activities, pursuant to § 225.25(b)(3) of the Board's Regulation Y.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Community Trust Financial Services Corporation, Hiram, Georgia; to acquire Community Loan Company, Hiram, Georgia, a joint venture with Danny H. Drummond, which will acquire Credit Services of Woodstock, Woodstock, Georgia, and thereby engage in consumer finance activities, pursuant to § 225.25(b)(1)(i) of the Board's Regulation Y. The proposed activity will be conducted throughout the State of Georgia.

Board of Governors of the Federal Reserve System, June 21, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–15670 Filed 6–26–95; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Employee Thrift Advisory Council; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), a notice is hereby given of the following committee meeting:

Name: Employee Thrift Advisory Council.
Time: 10:00 a.m.
Date: July 11, 1995.
Place: Fourth Floor, Conference Room, Federal Retirement Thrift Investment Board, 1250 H Street, NW., Washington, DC.
Status: Open.
Matters to be Considered:

1. Approve minutes of the January 24, 1995, meeting.
2. Report of the Executive Director on Thrift Savings Plan status.
3. May 15–July 31, 1995, Thrift Savings Plan Open Season activities.
4. Legislation.
5. New Business.

Any interested person may attend, appear before, or file statements with the Council. For further information contact John J. O'Meara, Committee Management Officer, on (202) 942–1660.

Dated: June 21, 1995.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 95–15630 Filed 6–26–95; 8:45 am]

BILLING CODE 6760–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Linking State Administrative Data

AGENCY: Office of the Assistant Secretary for Planning and Evaluation, HHS.

CORRECTION: This action corrects the announcement for ''Request for applications to support State efforts to link case-level administrative data across multiple low-income assistance programs'' appearing in the Monday, May 31, 1995 **Federal Register** Notice, 28419, second column. Due to an administrative oversight the address for requesting an application was omitted. The following two paragraphs are added to this announcement.

FOR FURTHER INFORMATION CONTACT: Application instructions and forms should be requested from and submitted to: Grants Officer, Office of the Assistant Secretary for Planning and Evaluation. Department of Health and Human Services, 200 Independence Avenue, S.W., Room 405–F, Hubert H. Humphrey Building, Washington, D.C. 20201, Phone (202) 690–8794. Requests for forms and technical questions will be accepted and responded to up to 15 days prior to the closing date of receipt of applications. Technical questions should be directed to Gary Hyzer, DHHS, ASPE, Telephone 202–401–6639. Questions may also be faxed to 202–690–6562. Written technical questions should be addressed to Mr. Hyzer at the above address. Application submissions may not be faxed.

ELIGIBLE APPLICANTS: The Department seeks applications from local non-profit and for profit organizations. For profit organizations are advised that no funds may be paid as profit to any receipt of a grant or sub-grant. Profit is any amount in excess of allowable direct and indirect costs of the grantee.

All other conditions of the original grant announcement remain unchanged.

Dated: June 21, 1995.

David T. Ellwood,

Assistant Secretary for Planning and Evaluation.

[FR Doc. 95–15699 Filed 6–26–95; 8:45 am]

BILLING CODE 4151–04–M

Office of the Assistant Secretary for Planning and Evaluation

Grants for Policy Research on Selected Poverty and Dependency Topics

AGENCY: Office of the Assistant Secretary for Planning and Evaluation.

ACTION: Request for applications to conduct policy research concerning low wage labor markets, parental responsibility and support, child development outcomes, and adolescent pregnancy.

SUMMARY: Office of the Assistant Secretary for Planning and Evaluation announces the availability of funds and invites applications for short-term policy research projects with emphasis on four priority areas.

CLOSING DATE: The closing date for submitting applications under this announcement is August 28, 1995.

FOR APPLICATION KITS OR FURTHER INFORMATION CONTACT: Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, 200 Independence Avenue, S.W., Room 405F, Hubert H. Humphrey Building, Washington, D.C. 20201, Phone (202) 690–8794.

Part I. Background and Purpose

A. Purpose of Grant Program

The purpose of these grants is to stimulate interest in conducting policy relevant research on a broad range of topics related to poverty, welfare dependency, labor markets, child and youth development and parental responsibility. These grants are for short-term efforts which are designed to be completed within one year. Our intent is to sponsor research efforts and not to fund the provision of services. While research may be conducted in service settings, proposals of this nature will be carefully scrutinized to assure that these funds are not used for other purposes, no matter how worthwhile. Within the context of this announcement, the term ''parent'' and ''family'' should be understood to include both mothers and fathers whether living together or apart.

B. Eligible Applicants and Funding

Pursuant to section 1110 of the Social Security Act, any public and private nonprofit organizations including universities and other institutions of higher education may apply. Applications may also be submitted by private for-profit organizations. However, no grant funds may be paid as profit, i.e., any amount in excess of allowable direct and indirect costs of the recipient (45 CFR 74.705). As a result of this competition between 10 and 15 awards are expected to be made from funds appropriated for fiscal years 1995 and another five awards with funds for 1996 provided funds are available. Awards will be limited to one year of support. The average award is expected to be approximately $75,000.

Part II. Topics of Priority Interest

A. Research on Low-wage Labor Markets, Employment and Training Programs

The employment problems of families receiving welfare encompass fundamental questions which are at the heart of the current debate regarding the direction of welfare reform. Whether these problems primarily reflect problems on the demand or the supply sides of the labor market frequently drives disagreements over interpretation of evidence and policy prescriptions. Some commentators emphasize that the structural changes in the economy have left those with poor skills, health, and transportation with few available jobs. Others would argue that low-wage jobs are readily available, and that what is lacking is willingness to search for and accept jobs at these wages. This view would hold that the existence of welfare payments is a decisive disincentive to work.

Recent shifts in employment away from traditional industrial sectors, such as manufacturing, from occupations requiring less skill and education, and from inner-city areas have allegedly resulted in a ''mismatch'' between the required skills and/or geographic locations of employers, on the one hand, and the skills and residential locations of many AFDC recipients, on the other.

For families receiving AFDC, these mismatches caused by demand shifts may be particularly severe, due to their greater relative concentrations in sectors or areas that are declining (such as jobs requiring less education or located in the inner-cities), their greater dependence on particular industries (like manufacturing) for obtaining better wages, or their greater difficulty in relocating to other sectors or areas in response to demand shifts (due to discrimination or higher skill requirements in the growing sectors).

In addition, the prospective policy of time-limited benefits under the proposed welfare reform raises many questions about the operation of the labor markets for current recipients of AFDC.

The result is a broad array of issues that can be explored in support of reducing poverty, assuring economic security, and encouraging self-reliance. Researchers are encouraged to submit their own ideas for potential topics. The topics listed below are given only for purposes of illustration:

The low wage labor market, particularly for women, is characterized by intermittent periods of being out of the labor force and, if in the labor forced, in and out of employment.

- What are the influences of welfare and unemployment insurance systems on keeping low skilled women with children out of poverty?
- What policy changes might make these systems a better safety net for these woman given the operation of the labor market? What effect might these policy changes have on the poverty rate of children?
- To what extent does low wage work reduce poverty or welfare receipt?
- What is the link between the training that welfare recipients are offered and the types of jobs that are available? Are welfare recipients being trained for jobs that are realistically available to them?
- Do entrants into low wage jobs have an opportunity to advance? What are the determinants of workers' success once they enter the low wage labor market?
- What types of training are most successful in preparing welfare recipients for jobs and in job retention?
- What is the experience with subsidized work strategies of the past? What steps are critical to the creation of subsidized jobs for welfare recipients? How much can be done by the private sector? What can be done by nonprofits? When are subsidized jobs most likely to lead to long term unsubsidized employment?
- What are the implications for an increase in the minimum wage for welfare recipients?
- What are the experiences of low skilled/educated men and how do they compare with that of women?
- What are the relationships between unemployment, low wages and family formation/dissolution?

Technical questions concerning this topic should be directed to Audrey Mirsky at 202–401–6640.

B. Research on Parental Responsibility and Support

Child support is a critical component for ensuring economic stability for millions of single-parent families. While many single parents can and do raise their children on their own, the financial burden of serving as the family's sole provider puts children at risk of living in poverty. The present child support system too often functions

poorly and fails to ensure that support for children comes from both parents. But parental responsibility is not limited to the payment of support. Non-custodial parents can also make other important contributions to their children's well-being.

There are a large number of issues that impinge upon the ability and willingness of non-custodial parents to assume responsibility for their children's well-being. Researchers are encouraged to submit their own ideas for potential topics. The topics listed below are given only for purposes of illustration.

In-Hospital Paternity—All states are now required to have paternity programs in every hospital that provides birthing services. Reports indicate that the rates of paternity establishment vary widely among hospitals within and across states. Many parents remain unwilling to take advantage of the opportunity to establish paternity voluntarily. What are the concerns of mothers and fathers at the hospital? What strategies and outreach activities promote positive paternity establishment outcomes?

Medical Support Awards—What is the potential for medical support awards, especially for welfare dependent and other low-income children? Do low-income non-custodial fathers have access to family coverage? Do medical support awards result in custodial families having less cash support? Are there better alternatives for assuring health care coverage, especially in interstate cases (for example Medicaid buy-ins, making the custodial parent the primary insurer)?

Informal Child Support—Relatively little is known about informal child support payments. What kinds of support are contributed? How much is contributed? How reliable are these contributions? How do these contributions compare to formal child support obligations? Do payments and other contributions typically end if the relationship sours or ends? Are payments more reliable when the contributor is sure the money is going to the family, rather than to reimburse the government? What factors influence the provisions of informal support and the decision not to pursue formal support payments?

Nurturing/Parenting in Separated Households—The issues of nurturing and parenting when the parents do not live together are very complex. Much of what is known comes from our assessment of co-parenting failures: non-custodial fathers (and mothers) who just disappear; parents who feel they are being denied access to their children; parents who have to be taught what it means to be a responsible parent. Interventions to fix these problems are being tried and some are being evaluated. We know very little about successful co-parenting in families where parents live apart. Who are the successful co-parents? How do they differ from unsuccessful co-parents? What factors contribute to this success? Is there a positive impact on their children's well-being? Can we learn anything from these successes that can help develop interventions when co-parenting doesn't work?

Fathers in Prison—Some studies are beginning to show that a significant proportion of the fathers of AFDC children are in prison or have criminal records. What are the implications of this for child support payments and for father involvement? How does the current child support enforcement system handle such cases? Are there innovative programs that we can learn from?

Domestic Violence and Child Support—The number of AFDC cases applying for and receiving good cause exemption for refusing to cooperate in establishing paternity and securing support has always been very small (less than 1% of the caseload). This rate is considerably lower than the estimated prevalence of domestic violence among low-income women. It may be that the child's father is not the perpetrator of the violence experienced by many of these women. Alternatively, this low rate may be a function of the ease with which AFDC applicants and recipients can avoid meeting the cooperation requirements. With stricter cooperation requirements, one of the likely outcomes of welfare reform, it is important to have a much better understanding of the dynamics between enforcement of support and the threat of physical retaliation by the child's biological father. What is the incidence of domestic violence among AFDC recipients? How much of the violence is attributable to the children's father? Can we expect requests for good cause exemptions to increase? Are there successful strategies for pursuing support and not placing families at risk?

Technical questions concerning this topic should be directed to Linda Mellgren at 202–690–6806.

C. Research on Linkages Between Child Development and Changes in Family Economic Self-Sufficiency

Anti-poverty policies have as their major aim the improvement of poor children's life circumstances and future prospects. These policies have generated programs designed to assist poor children and their families in three primary ways: (1) programs which focus on enhancing child development and strengthening the parent-child relationship, (2) programs which primarily provide economic support and emphasize job development for parents, and (3) comprehensive child and family programs which are two generational in their service intervention focus and address families' needs in all areas including child development and economic self-sufficiency. Comprehensive program approaches are becoming more prominent now and are built on the belief that changes must be supported for both children and their families and that longer term improvements for children will not occur unless their families also change and achieve greater economic self-sufficiency.

Research has yielded some evidence as to the effectiveness of each of these program approaches, but the knowledge base is limited in a number of ways. Studies of employment and training programs have focused on outcomes for adults and have not usually examined impacts on children's development. Studies of child development programs, such as Head Start, have focused on child outcomes and rarely have examined economic of other outcomes for parents. Developmental theory suggests, however, that changes for children and changes for parents will be interrelated. Interventions which effectively promote children's well-being and the parent-child relationship may benefit parents' development in ways that are related to the economic well-being of their families. Conversely changes in family economic well-being, resulting from interventions or naturally occurring events, may affect the course of children's development.

There are research findings which suggest that it would be fruitful to develop these lines of inquiry further. Recent findings from experimental research by Olds and his colleagues (1994) indicate that low-income mothers who have participated in home visiting child development programs spend less time on welfare and earn more income two years after the intervention than low-income mothers who have not received such services. Findings from nonexperimental research on changes in income, poverty status and welfare status suggest that such changes have a number of consequences for children's development (Conger & Elder, 1994; Moore, Morrison, Zaslow, Glei, 1994). Research the Department is now funding on the impacts of mothers' participation in the Jobs Opportunities and Basic Skills (JOBS) Training

Program will provide new experimental evidence on the impacts of employment interventions on both parents and children.

The goal of this grant area is to develop new knowledge about the possible linkages between intervening to support children's development (in childhood or adolescence) and intervening to promote families' economic self-sufficiency and about the conditions under which linkages occur or can be created. We seek knowledge which can inform policy formulation at national, state, and local levels and can guide the design of service interventions.

Topics of interest include:

- Changes in parents' poverty or welfare dependency as a function of the provision of child development services (such as child care, after school care, and more intensive child and youth development programs);
- Changes in children's development as a function of changes in family poverty or welfare dependency;
- Variations in home environments or in child and youth development as a function of low-income parents' transitions from welfare to employment and participation in work or training programs;
- Variations in children's time use and parents' supervision and monitoring of children's activities as a function of AFDC parents' participation in work or training;
- Relationships between developing employability skills and developing parenting skills;
- Characteristics of low-wage jobs or employment and training programs which affect parents' continued participation in work or training because of their influence on the home environment and parents' ability to manage their child-rearing responsibilities; and
- Effects of participation of low-income youth in employment and training on family relationships and economic self-sufficiency.

Technical questions concerning this topic should be directed to Martha Moorehouse at 202–690–6939.

D. Research on Adolescent Pregnancy and Parenting

Teen pregnancy and teen parenthood have raised great concerns among policy makers and the general public. Teen parenthood is associated with many negative outcomes such as welfare dependency and school dropout for young mothers and low birth weight and other problems for their children. Given the potential consequences of teen pregnancy, the issue has been at the center of many recent policy debates.

While our knowledge about the factors related to teen pregnancy and parenthood are limited, we do have some information on trends in sexual activity and childbearing and have identified some possible antecedents. Earlier physical maturation, increasing teen sexual activity, and the incidence of non-consensual sexual intercourse have increased the risk of exposure to pregnancy among adolescents. It is important to recognize that teens report 84% of all pregnancies in 1990 were unintended. The primary factors that are associated with teenage sexual activity and parenthood are socioeconomic disadvantage, school failure, behavior problems and risk-taking.

The most recent synthesis of the literature, *Beginning Too Soon: Adolescent Sexual Behavior Pregnancy and Parenthood* by K. Moore and her associates (in press) identifies the different roles people, institutions and policies play in influencing the decisions of teen mothers. We are only beginning to learn the relative roles of peers, partners, siblings, parents, media, neighborhood influences, biological development and public policy and programs on the timing of first sexual intercourse and other decisions related to sexual activity, pregnancy and parenthood. More research in each of these areas is necessary.

The topics listed below could fill some of the knowledge gaps we face, but are given only for purposes of illustration. Authors are encouraged to submit their own ideas for potential topics.

- What is the impact of involuntary sex on teens? Is it an antecedent of adolescent parenthood? What is the role of non-sexual child abuse?
- Do we know if vulnerable teen populations (e.g., youth living away from their parents, incarcerated youth, and runaway or homeless youth) have an increased chance of becoming teen parents?
- What impact do the media have on teens' decisions related to sexual activity and/or childbearing? What is the impact of the popular media? What is the impact of the use of media to support healthy decision making and activity?
- What is the role of religious institutions? What is the impact of religiosity in general? Does it vary across religions?
- What is known about the relationship between youths' participation in youth development activities and pregnancy or parenthood?
- What do we know about the male partners of sexually active teenagers? What types of interventions should target teen males? What interventions (if any) have targeted or could target older males? What is the impact of child support policies on their intention to become fathers?
- What is known about the impact of the presence/absence of significant adults on teens' decisions that lead to adolescent pregnancy and parenthood? What are particular elements of this factor? What are the roles of parents? Peers? Other caring adults?
- What impact does a teen's perception of future opportunity have on decisions regarding sexual activity, pregnancy and parenthood?
- What are the roles of schools as social and community settings for adolescent development? What do school reform intervention efforts tell us about the relationship between school functioning, students' academic success and teen pregnancy and parenthood?
- What is the role of labor market opportunities in decisions related to adolescent fertility?
- What do we know about how adolescents decide whether to place their children for adoption? Why don't more adolescents select adoption as the outcome of their pregnancy?
- What do we know about interventions specifically to reduce the number of second pregnancies or births to teens?

Technical questions concerning this topic should be directed to Elisa Koff at 202–690–5932.

E. Other Topics Related to Poverty and Dependency

In making decisions about which proposals to fund, priority attention will be given to projects which address concerns within the topical areas listed above. However, we do invite researchers to propose projects which are not included above, but which directly address the overall themes of poverty and dependence.

ASPE also encourages applicants to propose projects that analyze the various service delivery approaches or intervention strategies in use in a field. Appropriate fields include early childhood development, family economic development, child welfare services, youth services, or other social service areas of interest to HHS.

Such projects would describe and categorize service delivery approaches and intervention strategies now being used in a field and would explain their relationship to one another and to interventions in other service fields. This would create a framework for

policy makers to assess how newly proposed service interventions relate to exiting interventions and to other efforts in a field.

Research evidence of impacts on children or families is one basis policy makers use to assess what an intervention has to offer. Yet, other issues are also important. What underlying theories of human development, behavior and change are implicit in the strategy? How does the intervention relate to the unmet needs of the potential clientele? What resources are required for the intervention? What is the fit between the intervention and existing programs and service systems? How are the duration and intensity of the intervention related to the observed effects? What are the advantages or disadvantages over alternative approaches?

For example, in the field of infant and toddler services, we do not fully understand when and where different models of service are best applied. A range of new approaches is being tried, including Parents as Teachers, the Infant Health and Development Demonstration, Home Visiting Demonstrations, and Hawaii's Healthy Start program. The new Early Head Start initiative also will introduce services for infants and toddlers and their families. What factors are important for policy makers to consider in deciding when and where these or other models can best be used?

We invite researchers to propose to create a ''map'' of a field of child or family services that will serve as a framework for answering such questions.

Technical questions concerning this topic should be directed to Richard Silva at 202–401–6660.

Part III. Application Preparation and Evaluation Criteria

This part contains information on the preparation of an application for submission under this announcement, the forms necessary for submission and the evaluation criteria under which the applications will be reviewed. Potential applicants should read this part carefully in conjunction with the information provided in Part II.

Application Forms. See section entitled ''Components of a Complete Application.'' All of these documents must accompany the application package.

Length of Application. Applications should be as brief and concise as possible, but assure communication of the applicant's proposal to the reviewers. In no case shall the project narrative exceed 30 double spaced pages exclusive of appropriate attachments. Only relevant attachments should be included, for example, resumes of key personnel. Videotapes, brochures, and other promotional materials will be discarded and not reviewed. Project narratives should be formatted with 1 inch margins, double spaced lines, 12 point type, with consecutively numbered pages.

Applications should be assembled as follows:

1. *Abstract:* Provide a one-page summary of the proposed project. The abstract should clearly identify which priority topic listed in Part II above the application intends to address.

2. *Goals. Objectives, and Usefulness of Project:* Include an overview which describes the need for the proposed project; indicates the background and policy significance of the issue area(s) to be researched; outlines the specific quantitative and qualitative questions to be investigated; and describes how the proposed project will advance scientific knowledge and policy development.

3. *Methodology and Design:* Provide a description and justification of how the proposed research project will be implemented, including methodologies, approach to be taken, data sources to be used, and proposed research and analytic plans. Identify any theoretical or empirical basis for the methodology and approach proposed. In addition, provide evidence of access to data set(s) proposed to be studied.

4. *Experience of Personnel/ Organizational Capacity:* Briefly describe the applicant's organizational capabilities and experience in conducting pertinent research projects. Identify the key staff who are expected to carry out the research project and provide a curriculum vitae for each person. Provide a discussion of how key staff will contribute to the success of the project.

5. *Work Plan:* A work plan should be included which describes the start and end dates of the project, the responsibilities of each of the key staff, and a time line which shows the sequence of tasks necessary for the completion of the project. Identify the other time commitments of key staff members, for example, their teaching or managerial responsibilities as well as other projects that they are involved in. The Work plan should include a discussion of any plans for dissemination of the results of the study, e.g., articles in journals and presentations at conferences.

6. *Budget:* Submit a request for Federal funds using Standard Form 424A and provide a proposed budget using the categories listed on this form. A narrative explanation of the budget should be included which explains in more detail what the funds will be used for. If other sources of funds are being received to support aspects of this research, the source, amount, and other relevant details must be included.

Review Process and Funding information. Applications will be initially screened for compliance with the timeliness and completeness requirements. Three (3) copies of each application are required. Applicants are encouraged to send an additional three (3) copies of their application to ease processing, but applicants will not be penalized if these extra copies are not included. If judged in compliance, the application then will be reviewed by government personnel, augmented by outside experts where appropriate.

The panel will review the applications using the evaluation criteria listed below to score each application. These review results will be the primary element used by the ASPE in making funding decisions.

HHS reserves the option to discuss applications with other Federal agencies, Central or Regional Office staff, specialists, experts, States and the general public. Comments from these sources, along with those of the reviewers, may be considered in making an award decision.

As a result of this competition, between 10 and 15 awards are expected to be made from funds appropriated for fiscal years 1995, and an additional five awards may be made with funds for fiscal year 1996 within the limits of the available funding. Awards will be limited to one year of support. The average award is expected to be approximately $75,000.

Deadline for Submission of Applications. The closing date for submission of applications under this announcement is August 28, 1995. An application will be considered as meeting the deadline if it is either: (1) received at, or hand-delivered to, the mailing address on or before August 28, 1995, or (2) postmarked before midnight five days prior to August 28, 1995 and received in time to be considered during the competitive review process (within two weeks of the deadline date). Applications will not be accepted which are transmitted by fax.

When mailing application packages, applicants are strongly advised to obtain a legibly dated receipt from a commercial carrier (such as UPS, Federal Express, etc.), or from the U.S. Postal Service as proof of mailing by the deadline date. If there is a question as to when an application was mailed,

applicants will be asked to provide proof of mailing by the deadline date. When proof is not provided, an application will not be considered for funding. Private metered postmarks are not acceptable as proof of timely mailing.

Hand-delivered applications will be accepted Monday through Friday prior to and on August 28, 1995 during the hours of 9:00 a.m. to 4:30 p.m. in the lobby of the Hubert H. Humphrey building located at 200 Independence Avenue, SW., in Washington, D.C. when hand delivering an application, call 690–8794 from the lobby for pickup. A staff person will be available to receive applications. Applications which do not meet the August 28, 1995 deadline will not be considered or reviewed. HHS will send a letter to this effect to each late applicant.

HHS reserves the right to extend the deadline for all applications if there is widespread disruption of the mail because of extreme weather conditions or natural disasters or if HHS determines an extension to be in the best interest of the Government. However, HHS will not waive or extend the deadline for any applicant unless the deadline is waived or extended for all applicants.

Selection Process and Evaluation Criteria

Selection of the successful applicants will be based on the technical criteria laid out in this announcement. Reviewers will determine the strengths and weaknesses of each application in terms of the evaluation criteria listed below, provide comments and assign numerical scores. The review panel will prepare a summary of all applicant scores, strengths, weaknesses and recommendations.

The point value following each criterion heading indicates the maximum numerical weight that each section will be given in the review process. An unacceptable rating on any individual criterion may render the application unacceptable. Consequently, applicants should take care to ensure that all criteria are fully addressed in the applications. Applications will be reviewed as follows:

Evaluation Criteria

1. *Goals, Objectives, and Potential Usefulness of the Analyses.* (25 points). The potential usefulness of the objectives and how the anticipated results of the proposed project will advance scientific knowledge and policy development.

2. *Methodology and Design.* (35 points). The appropriateness, soundness, and cost-effectiveness of the methodology, including the research design, statistical techniques, analytical strategies, the selection of existing data sets, and other procedures.

3. *Qualifications of Personnel and Organizational Capability.* (25 points). The qualifications of the project personnel for conducting the proposed research as evidenced by professional training and experience, and the capacity of the organization to provide the infrastructure and support necessary for the project.

4. *Work Plan and Budget.* (15 points). Is the plan reasonable? Are the activities sufficiently detailed to ensure successful, timely implementation? Do they demonstrate an adequate level of understanding by the applicant of the practical problems of conducting such a project? Is the proposed budget reasonable and sufficient to ensure completion of the study?

Disposition of Applications

1. *Approval, disapproval, or deferral.* On the basis of the review of an application, the ASPE will either (a) approve the application in whole, as revised, or in part for an amount of funds and subject to such conditions as are deemed necessary or desirable for the research project; or (b) disapprove the application; or defer action on the application for such reasons as a lack of funds or a need for further review.

2. *Notification of disposition.* The ASPE will notify the applicants of the disposition of their application. A signed notification of the award will be issued to notify the applicant of the approved application.

3. *The Assistant Secretary's Discretion.* Nothing in this announcement should be construed as to obligate the Assistant Secretary for Planning and Evaluation to make any awards whatsoever. Awards and the distribution of awards among the priority areas are contingent on the needs of the Department at any point in time and the quality of the applications which are received.

Components of a Complete Application. A complete application consists of the following items in this order:

1. Application for Federal Assistance (Standard Form 424, Revised 4–88);

2. Budget Information—Non-construction Programs (Standard Form 424A, Revised 4–88);

3. Assurances—Non-construction Programs (Standard Form 424B, Revised 4–88);

4. A table of Contents;

5. Budget Justification for Section B—Budget Categories;

6. Proof of nonprofit status, if appropriate;

7. A copy of the applicant's approved indirect cost rate agreement if necessary;

8. Project Narrative Statement, organized in five sections addressing the following topics:

(a) Abstract,

(b) Goals, Objectives and Usefulness of the Project,

(c) Methodology and design,

(d) Background of the Personnel and Organizational Capabilities and

(e) Work plan (timetable);

9. Any appendices/attachments;

10. Certification Regarding Drug-Free Work place;

11. Certification Regarding Debarment, Suspension and Other Responsibility Matters;

12. Certification and, if necessary, Disclosure Regarding Lobbying;

Reports. The grantee must submit quarterly progress reports and a final report. The specific format and content for these reports will be provided by the project officer.

State Single Point of Contact (E.O. No. 12372). The Department of Health and Human Services has determined that this program is not subject to Executive Order No. 12372, Intergovernmental Review of Federal Programs, because it is a program that is national in scope and does not directly affect State and local governments. Applicants are not required to seek intergovernmental review of their applications within the constraints of E.O. No. 12372.

Dated: June 21, 1995.

David T. Ellwood,

Assistant Secretary for Planning and Evaluation.

[FR Doc. 95–15700 Filed 6–26–95; 8:45 am]

BILLING CODE 4151–04–M

Agency for Toxic Substances and Disease Registry

[Announcement 530]

The Great Lakes Human Health Effects Research Program

Introduction

The Agency for Toxic Substances and Disease Registry (ATSDR) announces that grant applications will be accepted to conduct research on the impact on human health of fish consumption from the Great Lakes. ATSDR's mission includes the prevention of adverse health effects resulting from human exposure to hazardous substances in the environment. The ATSDR Great Lakes Human Health Effects Research Program will focus on identified populations that have a potentially higher risk of long-

term adverse health effects from exposure to contaminants in Great Lakes fish, i.e., Native Americans, sport anglers, urban poor, the elderly, Asian Americans and other racial/ethnic minority populations, and fetuses and nursing infants of mothers who consume contaminated Great Lakes fish.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of ''Healthy People 2000,'' a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Environmental Health. (For ordering a copy of ''Healthy People 2000,'' see the Section **Where to Obtain Additional Information.**)

Authority

This program is authorized in sections 104(i)(5)(A) and (15) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) [42 U.S.C. 9604(i)(5)(A) and (15)]; and section 106, subsection 118(e) of the Great Lakes Critical Programs Act of 1990 [33 U.S.C. 1268(e)].

Smoke-Free Workplace

PHS strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Eligible applicants are the Great Lakes States and political subdivisions thereof, including federally-recognized Indian tribal governments. State organizations, including State universities, State colleges, and State research institutions, must affirmatively establish that they meet their respective State's legislative definition of a State entity or political subdivision to be considered an eligible applicant. The Great Lakes States include Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, New York, and Wisconsin, consistent with section 106, subsection 118(e) of the Great Lakes Critical Programs Act of 1990 [33 U.S.C. 1268(e)]. ATSDR encourages collaborative efforts among these potential applicants.

Availability of Funds

Approximately $4 million is available in fiscal year (FY) 1995 to fund approximately 9 re-competing and 1 to 2 new awards. It is expected that the average award will be $250,000 ranging from $200,000 to $300,000. It is expected that the awards will be made on or about September 30, 1995. It is anticipated that the new as well as the re-competing awards will be for a 12-month budget period with a proposed project period of 3 years. Funding estimates may vary and are subject to change.

The continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Use of Funds

Funds may be expended for reasonable program purposes, such as personnel, travel, supplies and services. Funds for contractual services may be requested; however, the grantee, as the direct and primary recipient of PHS grant funds, must perform a substantive role in carrying out project activities and not merely serve as a conduit for an award to another party or provide funds to an ineligible party. Equipment may be purchased with grant funds; however, the equipment must be appropriate and reasonable for the research activity to be conducted. Property may be acquired only when authorized in the grant. The grantee, as part of the application process, should provide a justification of need to acquire property, the description, and the cost of purchase versus lease.

Purpose

The purpose of this announcement is to solicit scientific proposals designed to investigate and characterize the association between the consumption of contaminated Great Lakes fish and potential long-term adverse health effects. The research objectives of this program are to: (1) Build upon and amplify the results from past and on-going research in the Great Lakes basin; (2) develop information, databases and research methodology that will provide long-term benefit to human health effects research in the Great Lakes basin; (3) provide direction for future health effects research; (4) provide health information to State and local health officials, the concerned public and their medical health care professionals; and (5) in concert with State and local health officials, increase the public awareness regarding the potential health implications of toxic pollution in the Great Lakes basin; and (6) coordinate as necessary with relevant Public Health Service (PHS) research programs and activities, including those of the Food and Drug Administration (FDA), Centers for Disease Control and Prevention (CDC), National Institutes of Health (NIH), and the Indian Health Service (IHS), as well as the Environmental Protection Agency (EPA) and State and local health departments, to ameliorate adverse public health impacts of persistent toxic substances in the Great Lakes basin.

Program Requirements

ATSDR will provide financial assistance to applicants in conducting studies on potential human health effects which result from human consumption of contaminated fish from the Great Lakes basin, particularly in the 31 areas of concern within the U.S. boundaries identified by the International Joint Commission. ATSDR encourages the submission of applications that emphasize research that will extend existing studies. ATSDR is also interested in funding applicant programs that identify populations which have a higher risk of short- and long-term adverse health effects from exposure to Great Lakes contaminants in fish, i.e., Native Americans, sport anglers, urban poor, the elderly, Asian Americans, racial/ethnic minority populations, and fetuses and nursing infants of mothers who consume contaminated Great Lakes fish. Priority areas of research for this program include:

1. Characterizing exposure and determining the profiles and levels of Great Lakes contaminants in biological tissues and fluids in high-risk populations;
2. Identifying sensitive and specific human health endpoints, i.e., reproductive/developmental, behavioral, endocrinologic, and immunologic effects and correlating them to exposure to Great Lakes contaminants; and
3. Determining the short- and long-term risk(s) of adverse health effects in children which result from parental exposure to Great Lakes contaminants.

Proposed projects covering these priority areas should include strategies (risk communication) to inform susceptible populations about the potential human health impact of consuming contaminated fish from the Great Lakes.

Based upon research findings, longer term priority areas may include, but are not limited to:

1. Investigating the feasibility of, or establishing, registries and/or surveillance cohorts in the Great Lakes region; and
2. Establishing a chemical mixtures database with emphasis on tissue and blood levels to identify new cohorts, conduct surveillance and health effects studies, and establish registries and/or surveillance cohorts.

In awarding grants pursuant to the ATSDR Great Lakes Human Health Effects Research Program, ATSDR shall consider proposed projects that will help fill information gaps and address research needs regarding the human health impact of consumption of contaminated fish from the Great Lakes. ATSDR encourages collaborative efforts among potential applicants in pursuing these research needs.

Evaluation Criteria

New and re-competing applications will be reviewed and evaluated according to the following criteria:

1. *Scientific and Technical Review Criteria of New and Re-competing Continuation Applications*

a. PROPOSED PROGRAM—60%

The extent to which the applicant's proposal addresses:

(1) the scientific merit of the hypothesis of the proposed project, including the originality of the approach and the feasibility, adequacy, and rationale of the design (the design of the study should ensure statistical validity for comparison with other research projects);

(2) the technical merit of the methods and procedures for the proposed project (analytic procedures should be state of the art, including quality assurance and quality control methods for comparison with other research projects; additionally, the applicant is expected to participate in a tissue bank as part of the quality assurance quality control program) including the degree to which the project can be expected to yield results that meet the program objective as described in the Purpose section of this announcement;

(3) the proposed project schedule, including clearly established and obtainable project objectives for which progress toward attainment can and will be measured;

(4) the proposed mechanism to be utilized to address community concerns and opinion, and create lines of communication; and

(5) the proposed method to disseminate the study results to State and local public health officials, tribal governments, and the other Federal agencies, community residents, and other concerned individuals and organizations.

b. PROGRAM PERSONNEL—30%

The extent to which the proposal describes:

(1) the qualifications, experience, and commitment of the Principal Investigator, and his/her ability to devote adequate time and effort to provide effective leadership; and

(2) the competence of associate investigators to accomplish the proposed study; their commitment and time devoted to the study.

c. APPLICANT CAPABILITY—10%

Description of the adequacy and commitment of the institutional resources to administer the program and the adequacy of the facilities as they impact on performance of the proposed study.

d. PROGRAM BUDGET—(NOT SCORED)

The extent to which the budget is reasonable, clearly justified, and consistent with intended use of grant funds.

2. *Review of Continuation Applications*

Continuation awards within the project period will be made on the basis of the following criteria:

a. Satisfactory progress in meeting project objectives;

b. Realistic, specific, and measurable objectives for the new budget period;

c. Applicability and feasibility of proposed changes in meeting long-term objectives; methods of operation, need for grant support, and/or evaluation procedures to achieve project objectives; and

d. Budget request is clearly justified and consistent with the intended use of grant funds.

Funding Preferences

ATSDR will give funding preference to the nine competitive continuation grants funded during FY 1994 on the basis of satisfactory progress.

Executive Order 12372

The applications submitted under this announcement are not subject to the Intergovernmental Review of Federal Programs as governed by Executive Order 12372.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.161, Health Programs for Toxic Substances and Disease Registry.

Other Requirements

1. *Protection of Human Subjects*

If the proposed project involves research on human subjects, the applicants must comply with Department of Health and Human Services Regulations (45 CFR Part 46) regarding the protection of human subjects. Assurances must be provided that the project will be subject to initial and continuing review by the appropriate institutional review committees. In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If any Native American community is involved, its tribal government must also approve that portion of the project applicable to it. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and forms provided in the application kit.

2. *Cost Recovery*

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), provides for the recovery of costs incurred for health-related activities at each Superfund site from potentially responsible parties. The recipient will agree to maintain an accounting system that will keep an accurate, complete, and current accounting of all financial transactions on a site-specific basis, i.e., individual time, travel, and associated costs, including indirect cost, as appropriate for the site. The recipient will retain the documents and records to support these financial transactions for possible use in a cost recovery case for a minimum of ten (10) years after submission of a final financial status report, unless there is a litigation, claim, negotiation, audit, or other action involving the specific site. The records will then be maintained until resolution of all issues on the specific site. Note: Recipients of awards must maintain all records for 10 years following submission of the final Financial Status Report unless otherwise directed by the Cost Recovery Activity, OPOM, ATSDR, and must obtain written approval from the Cost Recovery Activity Official before destroying any records.

3. *Third Party Agreements*

Project activities which are approved for contracting pursuant to the prior approval provisions shall be formalized in a written agreement that clearly

establishes the relationship between the grantee and the third party.

The written agreement shall at a minimum:

1. State or incorporate by reference all applicable requirements imposed on the contractors under the grant by the terms of the grant, including requirements concerning peer review (ATSDR selected peer reviewers), ownership of data, and the arrangement for copyright when publications, data, or other copyrightable works are developed under or in the course of work under a PHS grant-supported project or activity;

2. State that any copyrighted or copyrightable works shall be subject to a royalty-fee, nonexclusive, and irrevocable license to the Government to reproduce, publish, or otherwise use them, and to authorize others to do so for Federal Government purposes;

3. State that whenever any work subject to this copyright policy may be developed in the course of a grant by a contractor under grant, the written agreement (contract) must require the contractor to comply with these requirements and can in no way diminish the Government's right in that work; and

4. State the activities to be performed, the time schedule for those activities, the policies and procedures to be followed in carrying out the agreement, and the maximum amount of money for which the grantee may become liable to the third party under the agreement.

The written agreement required shall not relieve the grantee of any part of its responsibility or accountability to PHS under the grant. The agreement shall therefore retain sufficient rights and control to enable the grantee to fulfill this responsibility and accountability.

Application Submission and Deadline Dates

The original and two copies of the application PHS Form 5161–1 (Revised 7/92, OMB Control Number 0937–0189) must be submitted to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–13, Atlanta, Georgia 30305 by August 10, 1995. (By formal agreement, the CDC Procurement and Grants Office will act for and on behalf of ATSDR on this matter.)

1. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date or,

b. Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. *Late Applications:* Applications which do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information call (404) 332–4561. You will be asked your name, address, and phone number and will need to refer to Announcement Number 530. You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Georgia Jang, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mail Stop E–13, Atlanta, Georgia 30305 or by calling (404) 842–6814. Programmatic technical assistance may be obtained from Dr. Heraline Hicks, Research Implementation Branch, or Michael Youson, Office of the Director, Division of Toxicology, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mail Stop E–29, Atlanta, Georgia 30333 or by calling (404) 639–6306 or 6300.

Please refer to announcement number 530 when requesting information and submitting an application.

Potential applicants may obtain a copy of ''Healthy People 2000,'' (Full Report, Stock No. 017–001–00474–0) or ''Healthy People 2000,'' (Summary Report, Stock No. 017–001–00473–1) referenced in the Introduction through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: June 20, 1995.

Claire V. Broome,

Deputy Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 95–15658 Filed 6–26–95; 8:45 am]

BILLING CODE 4163–70–P

[ATSDR–95]

Proposed Procedures for Combined Analyses of Epidemiologic Studies as Part of the Great Lakes Human Health Effects Research Program

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: This notice announces the procedures ATSDR will use for conducting combined research analyses as part of the ATSDR Great Lakes Human Health Effects Research Program.

SUMMARY: This notice describes the proposed procedures, meta- analyses and pooled data analyses, to be used by ATSDR to conduct combined analyses of epidemiologic studies supported by the ATSDR Great Lakes Human Health Effects Research Program. ATSDR may choose to utilize one or both procedures, depending on the data and the results of the future feasibility studies. The procedures will be used for both new and existing research investigations. Comments on this notice are requested. The procedures outlined herein will be used on an interim basis, subject to change based on comments received and experience gained during implementation of these procedures.

DATES: Public comments concerning this **Federal Register** notice must be received on or before December 26, 1995.

ADDRESSES: Comments on this notice should bear the docket control number ATSDR–95 and should be submitted to: Division of Toxicology, Research Implementation Branch, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Comments on this notice will be available for public inspection at the Agency for Toxic Substances and Disease Registry, Building 4, Suite 2400, Executive Park Drive, Atlanta, Georgia (not a mailing address), from 8 a.m. until 4:30 p.m., Monday through Friday, except for Federal legal holidays.

FOR FURTHER INFORMATION CONTACT: Dr. William Cibulas, Research Implementation Branch, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road NE., Atlanta, Georgia 30333, telephone (404) 639–6306.

SUPPLEMENTARY INFORMATION:

Background

The ATSDR Great Lakes Human Health Effects Research Program is

authorized in sections 104(I)(5)(A) and (15) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) [42 U.S.C. 9604(I)(5)(A) and (15)]; and section 106, subsection 118(e) of the Great Lakes Critical Programs Act of 1990 [33 U.S.C. 1268(e)]. This research program is designed to investigate and characterize the association between the consumption of contaminated Great Lakes fish and associated short- and long-term harmful health effects. The research objectives of the program are to (1) build upon and amplify the results from past and ongoing research in the Great Lakes basin; (2) develop information databases and research methodology that will provide long-term benefit to human health effects research in the Great Lakes basin; (3) provide direction for future health effects research; (4) provide health information to State and local health officials, and to the concerned public and their medical health care professionals; and (5) in concert with State and local officials, increase the public awareness regarding the potential health implications of toxic pollution in the Great Lakes basin; and (6) coordinate as necessary with relevant Public Health Service (PHS) research programs and activities, including those of the Food and Drug Administration (FDA), Centers for Disease Control and Prevention (CDC), National Institutes of Health (NIH), and the Indian Health Service (IHS), as well as the Environmental Protection Agency (EPA), and State and local health departments, to ameliorate adverse public health impacts of persistent toxic substances in the Great Lakes basin.

Toward this end, ATSDR has developed a Great Lakes Health Effects Research Strategy. The goals of this strategy are to identify human populations residing in the Great Lakes basin that may be at greater risk of exposure to chemical contaminants present in one or more of the Great Lakes, and to ameliorate or prevent any adverse health effects. This strategy is built upon the five traditional elements of disease prevention: identification, evaluation, control, dissemination, and infrastructure. This strategy has been endorsed by the Council of Great Lakes Research Managers and has been adopted by the International Joint Commission as a framework for the study of human health and other ecosystem effects in the Great Lakes basin.

In fiscal year 1992, ATSDR funded nine research grants to study the potential adverse human health effects of consuming contaminated fish. These studies include eight epidemiologic investigations in presumed susceptible populations, that is, Native Americans, sport anglers, the urban poor, pregnant women, fetuses and nursing infants of mothers who consume contaminated Great Lakes fish, infants and children, and the elderly. The ninth study focuses on developing more sensitive methods to detect persistent Great Lakes contaminants, such as polychlorinated biphenyls, dioxins, alkylated lead, mirex, and methylmercury, in human biologic tissues and fluids. In fiscal year 1993 ATSDR funded ten grants which included nine continuation awards for investigations funded in 1992 and one new award that established an interlaboratory-based, quality assurance/control program for the ATSDR research program. In fiscal year 1994, ATSDR funded continuation awards for all 10 research grants.

The impact of this research program will be felt most directly by the communities within the Great Lakes basin. Collectively, these 10 research projects will (1) build upon and extend six existing human health studies in the Great Lakes basin that include high-risk populations; (2) establish two new subpopulations that include African-American women, and men and women of reproductive age between 18 and 34; (3) improve analytical methodology for detecting low levels of Great Lakes contaminants in human biologic tissues and fluids and in environmental media; (4) characterize exposure to all 11 critical Great Lakes contaminants identified by the International Joint Commission, as well as other pollutants; (5) determine profiles and levels (body burden) of Great Lakes contaminants in high-risk populations; (6) identify sensitive human health end points from exposure to Great Lakes pollutants, i.e., behavioral, developmental, reproductive, neurologic, endocrinologic, and immunologic effects; (7) investigate paternal and maternal exposure to Great Lakes pollutants and assess the potential for related health effects in their children (transgenerational effects); (8) increase collaboration, cooperation, and communication between the researchers in the Great Lakes basin; and (9) provide public health information to the study populations, health care providers, and State and local health departments concerning human health effects that may result from exposure to Great Lakes pollutants by fish consumption.

Additionally, the research conducted by this program will help delineate the relationships among contaminant levels in the environment, exposure pathways, tissue levels, and potential human health effects; allow for evaluation and interpretation of data across human health studies to facilitate a basin-wide analysis of the pollution problem in the Great Lakes; and provide a ''model'' for other ecosystem-level studies intended to determine human health impacts of hazardous waste.

Rationale for Combined Analyses of ATSDR Research Investigations

Combined analyses of the research studies of the ATSDR Great Lakes Human Health Effects Research Program will provide qualitative and quantitative research synthesis of the ATSDR-supported investigations. It is expected that combined analyses of the studies will improve the science base for investigations of consumption of fish contaminated with persistent toxic compounds from the Great Lakes, strengthen the scientific foundation for informed decision-making regarding public policy, and improve coordination and linkages between research activities and public health practices.

Procedures for Combined Analyses of ATSDR Research Studies

The combined analyses (research synthesis) of epidemiologic investigations may be accomplished by meta-analysis of published results or pooled analysis of primary data. Both methods use explicit criteria, can be replicated, and provide a quantitative result. The following procedures will address key methodologic issues that are relevant to both methods of research synthesis, as well as their advantages and limitations.

Meta-analyses attempt to analyze and combine the results of previous independent studies of a given scientific issue. Meta- analyses can be used to increase the power of statistical tests for important end points and subgroups, to resolve uncertainty when studies have conflicting conclusions, and to improve estimates of effect size. Meta-analyses rely on the published reports of previous studies and are relatively easy and inexpensive to perform. However, they are also susceptible to many sources of bias and are influenced by statistical methods. Six major areas have been identified as critical elements of scientifically valid meta-analyses. Proposed meta-analyses of ATSDR studies will be conducted according to a predetermined protocol which will address the six major areas as follows: (1) study design, including protocol and

literature search; (2) combinability of results of separate studies; (3) control and measurement of potential bias; (4) statistical analysis including significance tests and point and interval estimation; (5) sensitivity analysis to confirm final results; and (6) application of results which provides perspective of pooled results.

Pooled data analyses attempt to analyze and combine the results of individual subject level data across studies. Pooled data analyses can facilitate the study of rare exposures as well as confounding and interactions between established and suspected risk factors. Common definitions, coding, cutpoints for variables, and adjustment for the same confounders can be accomplished in pooled data analyses. Consistency of findings and previously unrecognized errors, inconsistencies, and associations may also be examined. However, pooled data analyses are more difficult to conduct because they are labor- and time-intensive. In addition, important methodologic issues remain regarding the influence of study populations and methods on the results of the pooled data analyses, and the integration of qualitative assessments of research studies with quantitative estimates of the results. Guidelines for a systematic methodology for the pooled analysis of subject level data from previously conducted epidemiologic studies focus on eight critical areas. Proposed pooled data analyses for ATSDR studies will be conducted according to a predetermined protocol which will address the eight critical areas as follows: (1) location of all studies conducted on the topic of interest; (2) selection of the studies for the pooling project; (3) obtaining the primary data from original investigators and preparing the data for the pooled analysis; (4) estimation of study-specific effects; (5) examination of heterogeneity of these study-specific effects and how they should be pooled; (6) estimation of the pooled effects with the appropriate statistical model; (7) examination of heterogeneity between studies if this exists; and (8) conduct of a sensitivity analysis.

Dated: June 20, 1995.

Claire V. Broome,

Deputy Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 95–15659 Filed 6–26–95; 8:45 am]

BILLING CODE 4163–70–P

Centers for Disease Control and Prevention

[Announcement No. 563]

Cooperative Agreements for Investigational Consortium for Research in Laboratory Medicine

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1995 funds for the establishment of an Investigational Consortium for Research in Laboratory Medicine to pursue new and evolving frontiers in laboratory quality research.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of ''Healthy People 2000,'' a PHS-led national activity to reduce morbidity and mortality, and to improve quality of life. This announcement is related to the priority area of Surveillance and Data Systems. In December 1991, an institute was convened by CDC and the Association of State and Territorial Public Health Laboratory Directors (ASTPHLD) entitled ''Laboratory Initiatives for the Year 2000 (LIFT 2000)'' to develop consensus on laboratory components which are essential to achieving the ''Healthy People 2000'' national health objectives. (For ordering a copy of ''Healthy People 2000'' and ''LIFT 2000,'' see the section **Where to Obtain Additional Information**.)

Authority

This program is authorized under section 317(k)(2) [42 U.S.C., 247(k)(2)] of the Public Health Service Act, as amended.

Smoke-Free Workplace

PHS strongly encourages all grant recipients to provide a smoke-free workplace and to promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and government and their agencies. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, State and local governments or their bona fide agents, federally recognized Indian tribal organizations, and small, minority- and/or women-owned businesses are eligible to apply.

Availability of Funds

Approximately $600,000 is available in FY 1995 to fund up to three cooperative agreements. It is expected that the award will begin on or about September 29, 1995, and will be made for a 12-month budget period within a project period of up to two years. Funding estimates may vary and are subject to change. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Purpose

The principal purposes of these cooperative agreements are a) to provide assistance in developing an Investigative Consortium for Research in Laboratory Medicine, and b) to increase the capability of laboratorians and clinicians interested in laboratory medicine to engage in outcome-based laboratory research. The results of the research conducted by such a laboratory-based consortium will include increased knowledge of:

1. Improved methods for measuring patient outcome and performance of laboratory services.
2. The relationship between performance of laboratory services and patient outcome.
3. More comprehensive and improved assessment of the impact that changes in analytical technologies and test site locations have on patient outcome and laboratory practice.
4. Improved methods for defining required and desirable analytical goals that would have medical relevance for patient care.

Applications should explore new or evolving areas of critical research about quality measurements and components influencing quality in laboratory medicine. Also sought are applications from professional organizations interested in conducting outcome-based research in laboratory medicine. Applications dealing with clinical utility of specific tests are not sought unless they show direct relevance to specific areas of laboratory quality, and especially those enumerated above.

Benefits of the Cooperative Agreement

Individual participants in this investigational consortium are expected to benefit from the collaboration, communication and information exchange among themselves, the recipients of these cooperative agreements, and CDC. The recipients of these cooperative agreements are

expected to benefit by initiating research programs that may lead to future research efforts and similar consortia on their own. The public will benefit from CDC-established additional linkages to frontier research efforts dealing with quality of laboratory services impacting patient outcome and the increased knowledge gained in evaluating and improving the critical components of laboratory testing that impact public health.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under A. (Recipient Activities), and CDC will be responsible for the activities under B. (CDC Activities).

A. Recipient Activities

1. Either alone or through their constituents, carry out the research projects that were developed as stated in the application for assistance and as evaluated and prioritized by both CDC and the recipient.

2. Provide leadership in the design and implementation of research methodologies and protocols used to assess quality of laboratory testing and patient outcome.

3. Provide leadership in optimal data collection and analysis using the best epidemiological, statistical, and mathematical approaches available. Participant identification information may be omitted from these data if the consortium manager or research director is able to respond to questions concerning the validity of the data without providing participant information.

4. Use a mechanism for the sharing of the raw and analyzed data both within the consortium and with CDC.

5. Prepare manuscripts, along with the principal investigators of the individual projects if appropriate, for peer-reviewed publications that describe the results of some or all of the activities listed above. Manuscripts should benefit the public; the papers must also note the source of the funding for the project.

B. CDC Activities

1. Assist in the selection of projects that have the greatest public health concerns and in the evaluation of the detailed projects after their solicitation.

2. Provide technical input in the refinement of research protocol and methodologies proposed by the recipients and individual researchers including data collection, statistical analyses, and epidemiological approaches.

3. Collaborate in the development of a mutually defined data set standard for transmission of raw data, analyzed data, and reports within the consortium and with CDC.

4. Provide technical input and participate in the presentation of data at professional forums, meetings, and conferences as needed.

5. Provide technical assistance and input in the preparation of manuscripts related to the activities of the funded projects.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

1. Responsiveness of the overall application and its constituent projects to the objectives of the cooperative agreement including: a) applicant's understanding of the objectives of the proposed cooperative agreement and each proposed project; b) relevance of the projects to the stated objectives; c) public health benefits of the proposed research projects; and d) relationship to previous studies if applicable. (25 points)

2. Ability to provide staff, knowledge, and other resources required to provide oversight of the investigators—responsibilities in the individual projects. Of paramount importance are the assessed quality of the individual projects and ability of the individual investigators to carry out the functions as stated in their projects. The qualifications and time allocations of key personnel to be assigned to the cooperative agreement as well as the facilities, equipment, and other resources available to provide oversight of the constituent projects. (30 points)

3. The methods to be used in carrying out the responsibilities of the cooperative agreement and the projects contained therein and the steps to be taken in the planning and implementation of the projects. Scope of the studies in addition to the statistical and epidemiological methods to be used if applicable. (35 points)

4. Schedule for the activities of the cooperative agreement and the individual projects therein and methods for evaluating the accomplishments including detailed research plan to meet the objectives of the projects. (10 points)

5. In addition, consideration will be given to the extent to which the budget is reasonable, clearly justified, and consistent with the intended use of the funds. (Not scored)

Executive Order 12372 Review

This program is not subject to the Executive Order 12372 review.

Public Health Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.283.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from ten or more individuals and funded by the cooperative agreement will be subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If any of the proposed projects involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations, 45 CFR part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit. In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If any Native American community is involved, its tribal government must also approve that portion of the project applicable to it.

Application Submission and Deadline

The original and two copies of the application Form PHS 5161–1 (OMB Control Number 0937–0189) must be submitted to Henry S. Cassell III, Acting Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Atlanta, Georgia 30305, Attention: Marsha D. Driggans, Grants Management Specialist, Mailstop E16, on or before August 7, 1995.

1. *Deadline:* Applications shall be considered as meeting the deadline if they are either: (a) Received on or before the deadline date; or (b) Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or

U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. *Late Application:* Applications which do not meet the criteria in 1.(a) or 1.(b) above are considered late applications. Late applications will not be considered and will be returned to the applicant.

Where to Obtain Additional Information

A complete program description, information on application procedures, application package and business management technical assistance may be obtained from Marsha D. Driggans, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 305, Mailstop E16, Atlanta, Georgia 30305, telephone (404) 842–6523, facsimile (404) 842–6513, or via Internet: mdd2@opspgo1.em.cdc.gov.

Programmatic technical assistance may be obtained from Dr. Shahram Shahangian, Supervisory Health Scientist, Division of Laboratory Systems, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., Mailstop G23, Atlanta, Georgia 30341, telephone (404) 488–7680, facsimile (404) 488–7693, or via Internet: sns9@phpdls1.em.cdc.gov.

Please refer to Announcement Number 563 when requesting information and submitting an application.

Potential applicants may obtain a copy of ''Healthy People 2000'' (Full Report, Stock No. 017–001–00474–0) or ''Healthy People 2000'' (Summary Report, Stock No. 017–001–00473–1) referenced in the **INTRODUCTION** through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800. A copy of ''Laboratory Initiatives for the Year 2000'' may be obtained through Division of Laboratory Systems, CDC, Mailstop G25, Atlanta, Georgia 30341–3724, telephone (404) 488–7660.

Dated: June 21, 1995.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–15660 Filed 6–26–95; 8:45 am]

BILLING CODE 4163–18–P

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Occupational Radiation and Energy-Related Health Research Grants—Program Announcement 521: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Disease, Disability, and Injury Prevention and Control SEP: Occupational Radiation and Energy-Related Health Research Grants—Program Announcement 521.

Time and Dates: 8 a.m.–5 p.m., July 20, 1995.

Place: Executive Park Courtyard by Marriott, Meeting Room A, 1236 Executive Park Drive, Atlanta, Georgia 30329

Status: Closed.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcement 521, entitled Occupational Radiation and Energy-Related Health Research Grants.

The meeting will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Pub. L. 92–463.

Contact Person for More Information: Pervis C. Major, Ph.D, Health Science Administrator, Office of Extramural Coordination and Special Projects; Office of the Director, NIOSH, CDC, 1095 Willowdale Road, Morgantown, West Virginia 26505.

Dated: June 21, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–15661 Filed 6–26–95; 8:45 am]

BILLING CODE 4163–19–M

Health Care Financing Administration

[ORD–076–N]

New and Pending Demonstration Project Proposals Submitted Pursuant to Section 1115(a) of the Social Security Act: April 1995

AGENCY: Health Care Financing Administration (HCFA).

ACTION: Notice.

SUMMARY: This notice lists new proposals for Medicaid demonstration projects submitted to the Department of Health and Human Services during the month of April 1995 under the authority of section 1115 of the Social Security Act. This notice also lists proposals that were approved, disapproved, pending, or withdrawn during this time period. (This notice can also be accessed on the Internet at HTTP://WWW.SSA.GOV/HCFA/HCFAHP2.HTML.)

COMMENTS: We will accept written comments on these proposals. We will, if feasible, acknowledge receipt of all comments, but we will not provide written responses to comments. We will, however, neither approve nor disapprove any new proposal for at least 30 days after the date of this notice to allow time to receive and consider comments. Direct comments as indicated below.

ADDRESSES: Mail correspondence to: Susan Anderson, Office of Research and Demonstrations, Health Care Financing Administration, 2230 Oak Meadows, 6325 Security Boulevard, Baltimore, MD 21207.

FOR FURTHER INFORMATION CONTACT: Susan Anderson (410) 966–3996.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 1115 of the Social Security Act (the Act), the Department of Health and Human Services (HHS) may consider and approve research and demonstration proposals with a broad range of policy objectives. These demonstrations can lead to improvements in achieving the purposes of the Act.

In exercising her discretionary authority, the Secretary has developed a number of policies and procedures for reviewing proposals. On September 27, 1994, we published a notice in the **Federal Register** (59 FR 49249) that specified (1) the principles that we ordinarily will consider when approving or disapproving demonstration projects under the authority in section 1115(a) of the Act; (2) the procedures we expect States to use in involving the public in the development of proposed demonstration projects under section 1115; and (3) the procedures we ordinarily will follow in reviewing demonstration proposals. We are committed to a thorough and expeditious review of State requests to conduct such demonstrations.

II. Listing of New, Pending, Approved, and Withdrawn Proposals for the Month of April 1995

As part of our procedures, we publish a notice in the **Federal Register** with a monthly listing of all new submissions, pending proposals, approvals, disapprovals, and withdrawn proposals. Proposals submitted in response to a grant solicitation or other competitive process are reported as received during the month that such grant or bid is

awarded, so as to prevent interference with the awards process.

A. Comprehensive Health Reform Programs

1. New Proposals

No new comprehensive health reform proposals were received during the month of April.

2. Pending Proposals

Demonstration Title/State: Arizona Health Care Cost Containment System (AHCCCS)—Arizona.

Description: Arizona proposes to expand eligibility under its current section 1115 AHCCCS program to persons with incomes up to 100 percent of the Federal poverty level.

Date Received: March 17, 1995.

State Contact: Mabel Chen, M.D., Director, Arizona Health Care Cost Containment System, 801 East Jefferson, Phoenix, Arizona 85034, (602) 271–4422.

Federal Project Officer: Mike Fiore, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: The Diamond State Health Plan—Delaware.

Description: Delaware proposes to expand eligibility for Medicaid to persons with incomes up to 100 percent of the Federal poverty level and require that the Medicaid population enroll in managed care delivery systems. The State's current section 1115 demonstration project, the Delaware Health Care Partnership for Children, would be incorporated into the statewide program as an optional provider for eligible children.

Date Received: July 29, 1994.

State Contact: Kay Holmes, DSHP Coordinator, DHSS Medicaid Unit, Biggs Building, P.O. Box 906, New Castle, Delaware 19720, (302) 577–4900.

Federal Project Officer: Rosana Hernandez, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: MediPlan Plus—Illinois.

Description: Illinois seeks to develop a managed care delivery system using a series of networks, either local or statewide, to tailor its Medicaid delivery system to the needs of local urban neighborhoods or large rural areas.

Date Received: September 15, 1994.

State Contact: Tom Toberman, Manager, Federal/State Monitoring, 201 South Grand Avenue East, Springfield, Illinois 62763, (217) 782–2570.

Federal Project Officer: Gina Clemons, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: Community Care of Kansas—Kansas.

Description: Kansas proposes to implement a ''managed cooperation demonstration project'' in four predominantly rural counties, and to assess the success of a non-competitive managed care model in rural areas. The demonstration would enroll recipients currently eligible in the AFDC and AFDC-related eligibility categories, and expand Medicaid eligibility to children ages 5 and under with family incomes up to 200 percent of the Federal poverty level.

Date Received: March 23, 1995.

State Contact: Karl Hockenbarger, Kansas Department of Social and Rehabilitation Services, 915 SW Harrison Street, Topeka, Kansas 66612, (913) 296–4719.

Federal Project Officer: Jane Forman, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: Louisiana Health Access—Louisiana.

Description: Louisiana proposes to implement a fully capitated statewide managed care program. A basic benefit package and a behavioral health and pharmacy wrap-around would be administered through the managed care plans. The State intends to expand Medicaid eligibility to persons with incomes up to 250 percent of the Federal poverty level (FPL); those with incomes above 133 percent of the FPL would pay all or a portion of premiums.

Date Received: January 3, 1995.

State Contact: Carolyn Maggio, Executive Director, Bureau of Research and Development, Louisiana Department of Health and Hospitals, Post Office 2870, Baton Rouge, Louisiana 70821–2871, (504) 342–2964.

Federal Project Officer: Gina Clemons, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: Missouri.

Description: Missouri proposes to require Medicaid beneficiaries to enroll in managed care delivery systems, and extend Medicaid eligibility to persons with incomes below 200 percent of the Federal poverty level. As part of the program, Missouri would create a fully capitated managed care pilot program to serve non-institutionalized persons with permanent disabilities on a voluntary basis.

Date Received: June 30, 1994.

State Contact: Donna Checkett, Director, Division of Medical Services, Missouri Department of Social Services, P.O. Box 6500, Jefferson City, Missouri 65102–6500, (314) 751–6922.

Federal Project Officer: Nancy Goetschius, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: The Granite State Partnership for Access and Affordability in Health Care—New Hampshire

Description: New Hampshire proposes to extend Medicaid eligibility to adults with incomes below the AFDC cash standard and to create a public insurance product for low income workers. The State also seeks to implement a number of pilot initiatives to help redesign its health care delivery system.

Date Received: June 14, 1994.

State Contact: Barry Bodell, New Hampshire Department of Health and Human Services, Office of the Commissioner, 6 Hazen Drive, Concord, New Hampshire 03301–6505, (603) 271–4332.

Federal Project Officer: Maria Boulmetis, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: SoonerCare—Oklahoma.

Description: Oklahoma proposes to implement a 5-year statewide managed care demonstration using both fully and partially capitated delivery systems. The emphasis of the program is to address access problems in rural areas by encouraging the development of rural-based managed care initiatives. The State will employ traditional fully capitated managed care delivery models for urban areas and will introduce a series of partial capitation models in the rural areas of the State. All currently eligible, non-institutionalized Medicaid beneficiaries will be enrolled during the first 2 years of the project.

Date Received: January 6, 1995.

State Contact: Dr. Garth Splinter, Oklahoma Health Care Authority, Lincoln Plaza, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105, (405) 530–3439.

Federal Project Officer: Helaine I. Fingold, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: Health Access Plan Demonstration—Vermont.

Description: Vermont proposes to integrate Medicaid recipients into managed care plans and expand coverage to uninsured individuals up to 150 percent of the Federal poverty level. The State also proposes to provide pharmacy coverage to low income Medicare beneficiaries.

Date Received: February 24, 1995.

State Contact: Veronica Celani, Health Policy Director, Vermont Agency of Human Services, 103 State Street, Waterbury, Vermont 05671, (802) 828–2949.

Federal Project Officer: Sherrie Fried, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

3. Approved Conceptual Proposals (Awards of Waivers Pending)

No conceptual proposals were approved during the month of April.

4. Approved Grant Proposals (Award of Waivers Pending)

No grant proposals were awarded during the month of April.

5. Approved Proposals

Demonstration Title/State: MassHealth—Massachusetts.

Description: Massachusetts plans to implement a range of strategies to extend Medicaid coverage of its low-income citizens, including the employed and the unemployed. The program would employ direct provision of health services and promote market forces to address the needs of the uninsured, including providing subsidies to employers and employees with incomes up to 200 percent of the Federal poverty level.

Date Received: April 15, 1994.

Date Approved: April 24, 1995.

State Contact: Laurie Burgess, Director, Managed Care Program Development, Division of Medical Assistance, 600 Washington Street, Boston, Massachusetts 02111, (617) 348–5695.

Federal Project Officer: Ed Hutton, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: MinnesotaCare—Minnesota.

Description: Minnesota plans to expand its Medicaid managed care delivery system and to extend Medicaid eligibility to children with incomes up to 275 percent of the Federal poverty level.

Date Received: July 28, 1994.

Date Approved: April 27, 1995.

State Contact: Maria Gomez, Commissioner, Health Care Services Delivery, Minnesota Department of Human Services, 444 Lafayette Road N, St. Paul, Minnesota 55155, (612) 297–4113.

Federal Project Officer: Penny Pine, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

6. Disapproved Proposals

No comprehensive health reform proposals have been disapproved since January 1, 1993.

7. Withdrawn Proposals

No comprehensive health reform proposals were withdrawn during the month of April.

B. Other Section 1115 Demonstration Proposals

1. New Proposals

No new proposals were received during the month of April.

2. Pending Proposals

Demonstration Title/State: Georgia's Children's Benefit Plan—Georgia.

Description: Georgia submitted a Section 1115 proposal entitled ''Georgia Children's Benefit Plan'' to provide preventive and primary care services to children aged 1 through 5 living in families between 133 percent and 185 percent of the Federal poverty level. The duration of the project is 5 years with proposed project dates of July 1, 1995 to June 30, 2000.

Date Received: December 12, 1994.

State Contact: Jacquelyn Foster-Rice, Georgia Department of Medical Assistance, 2 Peachtree Street NW, 201 South Grand Avenue East, Atlanta, Georgia 30303–3159, (404) 651–5785.

Federal Project Officer: Maria Boulmetis, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: High Cost User Initiative—Maryland.

Description: Maryland proposes to implement an integrated case management system for high-cost, high-risk Medicaid recipients.

Date Received: July 8, 1994.

State Contact: John Folkemer, Maryland Department of Health and Mental Hygiene, Office of Medical Assistance Policy, 201 West Preston Street, Baltimore, Maryland 21201, (410) 225–5206.

Federal Project Officer: Rosana Hernandez, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: Family Planning Services Section 1115 Waiver Request—Michigan.

Description: Michigan seeks to extend Medicaid coverage for family planning services to all women of childbearing age living in families with incomes at or below 185 percent of the Federal poverty level, and to provide an additional benefit package consisting of home visits, outreach services to identify eligibility, and reinforced support for utilization of services. The duration of the project is 5 years.

Date Received: March 27, 1995.

State Contact: Gerald Miller, Director, Department of Social Services, 235 South Grand Avenue, Lansing, Michigan 48909, (517) 335–5117.

Federal Project Officer: Suzanne Rotwein, Ph.D., Health Care Financing Administration, Office of Research and Demonstrations, 2306 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: Family Planning Proposal—New Mexico.

Description: New Mexico proposes to extend Medicaid eligibility for family planning services to all women of childbearing age with incomes at or below 185 percent of the Federal poverty level.

Date Received: November 1, 1994.

State Contact: Bruce Weydemeyer, Director, Division of Medical Assistance, P.O. Box 2348, Santa Fe, New Mexico 87504–2348, (505) 827–3106.

Federal Project Officer: Alisa Adamo, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: CHOICES—Citizenship, Health, Opportunities, Interdependence, Choices and Supports—Rhode Island.

Description: Rhode Island proposes to consolidate all current State and Federal funding streams for adults with developmental disabilities under one program using managed care/managed competition.

Date Received: April 5, 1994.

State Contact: Susan Babin, Department of Mental Health, Retardation, and Hospitals, Division of Developmental Disabilities, 600 New London Avenue, Cranston, Rhode Island 02920, (401) 464–3234.

Federal Project Officer: Melissa McNiff, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows,

6325 Security Boulevard, Baltimore, Maryland 21207.

Demonstration Title/State: Wisconsin.

Description: Wisconsin proposes to limit the amount of exempt funds that may be set aside as burial and related expenses for SSI-related Medicaid recipients.

Date Received: March 9, 1994.

State Contact: Jean Sheil, Division of Economic Support, Wisconsin Department of Health and Social Services, 1 West Wilson Street, Room 650, P.O. Box 7850, Madison, Wisconsin 53707, (608) 266–0613.

Federal Project Officer: J. Donald Sherwood, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

3. Approved Conceptual Proposals (Award of Waivers Pending)

No conceptual proposals were awarded during the month of April.

4. Approved Proposals

Demonstration Title/State: Minnesota Long-Term Care Options Project—Minnesota.

Description: Minnesota plans to integrate long-term care and acute care services under combined Medicare and Medicaid capitation payments for elderly dual eligibles.

Date Received: April 18, 1994.

Date Approved: April 27, 1995.

State Contact: Pamela Parker, Minnesota Department of Human Services, Human Services Building, 444 Lafayette Road North, St. Paul, Minnesota 55155, (612) 296–2140.

Federal Project Officer: Melissa McNiff, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

5. Disapproved Proposals

No proposals were disapproved during the month of April.

6. Withdrawn Proposals

The following proposal was withdrawn from consideration.

Demonstration Title/State: KIDS CARE—Virginia

Description: Virginia proposed to expand Medicaid eligibility to children in the State-funded KIDS CARE program, and provide them with a limited Medicaid benefit restricted to ambulatory services.

Date Received: May 18, 1994.

Date Withdrawn: April 27, 1995.

State Contact: Janet Kennedy, Suite 1300, 600 East Broad Street, Richmond, Virginia 23219, (804) 371–8855.

Federal Project Officer: Maria Boulmetis, Health Care Financing Administration, Office of Research and Demonstrations, 2302 Oak Meadows, 6325 Security Boulevard, Baltimore, Maryland 21207.

III. Requests for Copies of a Proposal

Requests for copies of a specific Medicaid proposal should be made to the State contact listed for the specific proposal. If further help or information is needed, inquiries should be directed to HCFA at the address above.

(Catalog of Federal Domestic Assistance Program, No. 93.779; Health Financing Research, Demonstrations, and Experiments.)

Dated: June 14, 1995.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 95–15342 Filed 6–26–95; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Proposed Policy on Giant Panda Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice that the comment period on the proposed policy for issuance of permits for import of giant panda will be reopened for 30 days to obtain further comments.

DATES: Public comments received on or before July 27, 1995 will be considered by the Service.

ADDRESSES: Comments may be submitted to the Acting Chief of the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Kenneth Stansell, Acting Chief, Office of Management Authority, at the above address, or call (703)358–2093; fax (703)358–2280.

SUPPLEMENTARY INFORMATION: The Service published a proposed policy on issuance of permits for giant panda imports on March 30, 1995 (60 FR 16487). The original comment period ended on May 30, 1995. The Service received a request from the American Zoo and Aquarium Association, Bethesda, Maryland, to extend the comment period to allow further clarification of issues central to policy development. Interested organizations and the public are invited to comment on concerns as outlined in the March 30 **Federal Register** and any other issues related to panda conservation.

Authority: This notice was prepared under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: June 16, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–15626 Filed 6–26–95; 8:45 am]

BILLING CODE 4310–55–P

[DES 95–31]

Availability of Draft Environmental Impact Statement for Proposed Reintroduction of Mexican Wolf to Historic Range in Southwestern United States

AGENCY: Fish and Wildlife Service, Department of Interior.

ACTION: Notice of availability of a draft Environmental Impact Statement (EIS) for the proposed reintroduction of the Mexican wolf within its historic range in the southwestern United States.

DATES: Comments will be accepted until October 31, 1995. See table below for dates of public meetings.

ADDRESSES: Comments should be sent to U.S. Fish and Wildlife Service, Mexican Wolf EIS, P.O. Box 1306, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: David Parsons, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103 (telephone (505) 766–2914; facsimile (505) 766–8063).

SUPPLEMENTARY INFORMATION: A limited number of individual copies of the draft EIS may be obtained by contacting the above address. Copies of the draft EIS summary will be sent to everyone currently on the U.S. Fish and Wildlife Service's mailing list for information on the Mexican Wolf Recovery Program. Copies of the draft EIS summary are available upon request.

Copies of the draft EIS are available for inspection at public and University libraries in the following counties: In Arizona, Apache, Cochise, Gila, Graham, Greenlee, Navajo, Pima, and Santa Cruz Counties; in New Mexico, Catron, Doña Ana, Grant, Lincoln, Hidalgo, Otero, Sierra and Socorro Counties; and in Texas, Brewster County. They are also available at libraries in Phoenix, Arizona; Tucson, Arizona; Albuquerque, New Mexico; and Santa Fe, New Mexico.

Public open-house meetings will be held at the following locations on the days indicated:

Arizona:		
Alpine	September 20	Alpine Elementary School, County Road 2052.
Clifton	September 6	Courthouse Conference Room, 5th Street and Leonard.
Douglas	September 12	Police Department Conference Room, 300 W. 14th St.
Phoenix	September 9	Holiday Inn—N. Central, 4321 N. Central Pinetop.
Lakeside	September 18	Pinetop Council Chambers, 1360 N. Niels Hansen Rd., Lakeside.
Safford	September 7	Safford Library, 808 7th Avenue.
Tucson	September 11	Viscount Suites, 4855 E. Broadway.
New Mexico:		
Alamogordo	August 29	Holiday Inn, 1401 White Sands Blvd.
Albuquerque	August 22	Indian Pueblo Cultural Center, 2401 12th Street NW.
Las Cruces	August 24	Holiday Inn, 201 E. University.
Reserve	September 21	Reserve Community Center, Across from High School.
Silver City	September 5	Holiday Motor Hotel, 342 Highway 180 East.
Truth Or Consequences	September 14	T or C Civic Center, 400 West 4th Street.
Texas:		
Alpine	August 26	Alpine Civic Center, 102 West Holland.

Dated: June 15, 1995.

Nancy M. Kaufman,

Regional Director, Region 2, U.S. Fish and Wildlife Service.

Dated: June 21, 1995.

Willie Taylor,

Director, Office of Environmental Policy and Compliance, Department of the Interior.

[FR Doc. 95–15629 Filed 6–26–95; 8:45 am]

BILLING CODE 4310–55–P

U.S. Geological Survey

Interagency Advisory Committee on Water Data; Intergovernmental Task Force on Monitoring Water Quality

AGENCY: U.S. Geological Survey (USGS), U.S. Department of the Interior.

ACTION: Notice of an open meeting of the Intergovernmental Task Force on Monitoring Water Quality (ITFM).

SUMMARY: Notice is hereby given of a meeting of the ITFM. The purpose of the meeting will be to discuss and lay the foundation for the transition of the ITFM to the National Council for Monitoring Water Quality. The proposed agenda for the meeting includes a brief report of the future plans for continuing workgroups, discussion of the future need of the workgroups and breakout groups that will address the water-quality monitoring needs at various geographic scales. The ITFM is a partnership of representatives from Federal, State, Native American, and interstate governmental organizations. Working since January 1992 in consultation with representatives of other public and private organizations, the ITFM is developing an integrated, nationwide, voluntary strategy for water-quality monitoring.

DATES: The meeting will convene at 8:30 a.m., on Tuesday, July 18, 1995, and will adjourn at 5 p.m., on Wednesday, July 19, 1995.

ADDRESSES: Sheraton Reston Hotel, 11810 Sunrise Valley Drive, Reston, Virginia, 22091.

FOR FURTHER INFORMATION CONTACT: Nancy Lopez, Chief, Office of Water Data Coordination, USGS, 417 National Center, Reston, VA 22092, (703) 648–5014. Also, for information about the ITFM, you may contact the chairperson of ITFM, Elizabeth Fellows, at (202) 260–7062. Ms. Fellows is the Chief, Monitoring Branch, Office of Wetlands, Oceans, and Watersheds, Office of Water, U.S. Environmental Protection Agency.

SUPPLEMENTARY INFORMATION: This meeting is open to the public. A half hour at the end of the meeting on Wednesday is being set aside for public comment. Persons wishing to make a brief presentation (up to 5 minutes) are asked to provide a written request with a description of the general subject area to Nancy Lopez at the above address no later than noon, July 12, 1995, to reserve space on the agenda. It is requested that 30 copies of a written statement for the record be submitted to Ms. Lopez at the time of the meeting. We will distribute these copies to the members of the ITFM and place them in the official file.

John N. Fischer,

Associate Chief Hydrologist.

[FR Doc. 95–15596 Filed 6–26–95; 8:45 am]

BILLING CODE 4310–31–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 17, 1995. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by July 12, 1995.

Carol D. Shull,

Keeper of the National Register.

FLORIDA

Dade County

Hialeah Seaboard Air Line Railway Station, 1200 SE., 10th Ct., Hialeah, 95000854

LOUISIANA

Natchitoches Parish

Keegan House, 143 Chaplin Loop, Robeline, 95000853

MINNESOTA

Pennington County

Minneapolis St. Paul and Sault Ste. Marie Depot, Jct. of Third St. and Atlantic Ave., Thief River Falls, 95000852

MISSISSIPPI

Adams County

Holy Family Catholic Church Historic District, Roughly along Aldrich, Old D'Evereux, St. Catherine, Abbott and Byrne Sts., Natchez, 95000855

NEW YORK

Niagara County

Carnegie Library, 249 Goundry St., North Tonawanda, 95000851

PUERTO RICO

Adjuntas Municipality

Las Cabanas Bridge (Historic Bridges of Puerto Rico MPS), PR 135 over Rio Vaces, Barrios Capaez and Garza, Adjuntas vicinity, 95000838

Arecibo Municipality

Cambalache Bridge (Historic Bridges of Puerto Rico MPS), Over Rio Grande de

Arecibo, W of PR 2, Barrios Tanama and Cambalache, Arecibo vicinity, 95000831

Bayamon Municipality

Marques de la Serna Bridge (Historic Bridges of Puerto Rico MPS), PR 890 over Rio de Bayamon, Barrio Juan Sanchez, Bayamon vicinity, 95000850

Plata Bridge (Historic Bridges of Puerto Rico MPS), PR 167 over Rio de la Plata, Barrios Nuevo and Dajao, Nuranjito and Bayamon, Naranjito vicinity, 95000849

Canovanas Municipality

Villaran Bridge (Historic Bridges of Puerto Rico MPS), PR 9959 over Rio Canovanas, Barrios Pueblo and Canovanas, Canovanas vicinity, 95000835

Cayey Municipality

Arenas Bridge (Historic Bridges of Puerto Rico MPS), PR 735 over Rio de la Plata, Barrios Montellano and Arenas, Cayey vicinity, 95000843

La Liendre Bridge (Historic Bridges of Puerto Rico MPS), PR 735 over Quebrada Beatriz Barrios Vegas and Arenas, Cayey vicinity, 95000844

Rio Maton Bridge (Historic Bridges of Puerto Rico MPS), PR 14 over Rio Maton, Barrio Maton Abajo, Cayey vicinity, 95000841

Ciales Municipality

Manati Bridge at Mata de Platano (Historic Bridges of Puerto Rico MPS), PR 6684 over Rio Manati, Barrio Hato Viejo, Ciales vicinity, 95000847

Coamo Municipality

General Mendez Vigo Bridge (Historic Bridges of Puerto Rico MPS), PR 14 over Rio Las Minas, Barrio San Ildefonso, Coamo vicinity, 95000839

Padre Inigo Bridge (Historic Bridges of Puerto Rico MPS), PR 14 over Rio Coamo, Barrio Palmarejo, Coamo vicinity, 95000840

Comerio Municipality

Rio Hondo Bridge (Historic Bridges of Puerto Rico MPS), PR 156 over Rio Hondo, Barrio Rio Hondo, Comerio vicinity, 95000842

Corozal Municipality

Mavilla Bridge (Historic Bridges of Puerto Rico MPS), PR 159 over Rio Mavilla, Barrios Palmarejo and Abras, Corozal vicinity, 95000848

Guayama Municipality

Cayey Bridge (Historic Bridges of Puerto Rico MPS), PR 15 over Rio Guamani, Guayana vicinity, 95000845

Hormigueros Municipality

Silva Bridge (Historic Bridges of Puerto Rico MPS), PR 114 over Rio Guanajibo, Barrio Guanajibo, Hormigueros vicinity, 95000834

Maricao Municipality

Del Treinta Bridge (Historic Bridges of Puerto Rico MPS), PR 128 over Rio Prieto, Barrio Indiera Alta, Maricao vicinity, 95000846

Naguabo Municipality

Bridge No. 122 (Historic Bridges of Puerto Rico MPS), PR 3 over Rio Blanco, Barrio Rio Hucares, Naguabo vicinity, 95000836

San Juan Municipality

General Norzagaray Bridge (Historic Bridges of Puerto Rico MPS), PR 873 over the Quebrada Frailes, Barrios Tortugo and Monacillos, San Juan vicinity, 95000833

Rio Piedras Bridge (Historic Bridges of Puerto Rico MPS), PR 8839 over Rio Piedras, Barrios El Cinco and Hato Rey, San Juan vicinity, 95000832

Utuado Municipality

Blanco Bridge (Historic Bridges of Puerto Rico MPS), PR 10 over Rio Pellejas, Barrio Arenas, Utuado vicinity, 95000837

WASHINGTON

King County

Tracy House, 18971 Edgecliff Dr. SW., Seattle, 95000830

[FR Doc. 95–15607 Filed 6–26–95; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–363–364 and 731–TA–711–717 (Final)]

OCTG From Argentina, Austria, Italy, Japan, Korea, Mexico and Spain; Notice of Commission Determination to Conduct a Portion of the Hearing in Camera

AGENCY: U.S. International Trade Commission.

ACTION: Closure of a portion of a Commission hearing to the public.

SUMMARY: Upon request of respondents in the above-captioned final investigations, the Commission has unanimously determined to conduct a portion of its hearing scheduled for June 27, 1995, *in camera. See* Commission rules 207.23(d), 201.13(m) and 201.35(b)(3) (19 CFR 207.23(d), 201.13(m) and 201.35(b)(3)). The remainder of the hearing will be open to the public. The Commission unanimously has determined that the seven-day advance notice of the change to a meeting was not possible. *See* Commission rule 201.35(a), (c)(1) (19 CFR § 201.35(a), (c)(1)).

FOR FURTHER INFORMATION CONTACT: Anjali K. Singh, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–3117.

Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission believes that the respondents from the subject countries have justified the need for a closed session. A full discussion of price competition in the industry and the domestic industry's financial condition can only occur if a portion of the hearing is held *in camera*. Because certain information is not publicly available, any discussion of issues relating to this information will necessitate disclosure of business proprietary information (BPI). Thus, such discussions can only occur if a portion of the hearing is held *in camera*. In making this decision, the Commission nevertheless reaffirms its belief that whenever possible its business should be conducted in public.

The hearing will include the usual public presentations by petitioners and by respondents, with questions from the Commission. In addition, the hearing will include an *in camera* session for a presentation that discusses BPI by respondents and for questions from the Commission relating to the BPI, followed by a similar *in camera* presentation by petitioners. For any *in camera* session the room will be cleared of all persons except those who have been granted access to BPI under a Commission administrative protective order (APO) and are included on the Commission's APO service list in this investigation. *See* 19 CFR 201.35(b)(1), (2). In addition, to the extent petitioners' BPI will be discussed in the *in camera* session, personnel of the petitioning firms whose data will be discussed may also be granted access to the closed session while such data is discussed. The time for the parties' presentations and rebuttals in the *in camera* session will be taken from their respective overall allotments for the hearing. All persons planning to attend the *in camera* portions of the hearing should be prepared to present proper identification.

Authority: The General Counsel has certified, pursuant to Commission Rule 201.39 (19 CFR 201.39) that, in her opinion, a portion of the Commission's hearing in *OCTG from Argentina, Austria, Italy, Japan, Korea, Mexico and Spain*, Inv. Nos. 701–TA–363–364 and 731–TA–711–717 (Final) may be closed to the public to prevent the disclosure of BPI.

Issued: June 21, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–15685 Filed 6–26–95; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 731–TA–723 (Final)]

Certain Drawer Slides From China

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731–TA–723 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China of partial extension commercial roller drawer slides of steel, provided for in subheading 8302.42.30 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: June 5, 1995.

FOR FURTHER INFORMATION CONTACT: Olympia Hand (202–205–3182), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of partial extension commercial roller drawer slides of steel from China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on October 31, 1994, by Hardware Designers, Inc., Danbury, CT.

Participation in the investigation and public service list.—Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in this investigation will be placed in the nonpublic record on October 10, 1995, and a public version will be issued thereafter, pursuant to section 207.21 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on October 23, 1995, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 16, 1995. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on October 18, 1995, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigation as possible any requests to present a portion of their hearing testimony *in camera.*

Written submissions.—Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; the deadline for filing is October 17, 1995. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. The deadline for filing posthearing briefs is October 31, 1995; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before October 31, 1995. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules.

Issued: June 21, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–15687 Filed 6–26–95; 8:45 am]

BILLING CODE 7020–02–P

[Investigation 332–362]

U.S.-Africa Trade Flows and Effects of the Uruguay Round Agreements and U.S. Trade and Development Policy

AGENCY: United States International Trade Commission.

ACTION: Rescheduling of public hearing.

EFFECTIVE DATE: June 20, 1995.

SUMMARY: The public hearing on this matter, scheduled for July 25, 1995, has been rescheduled to July 26, 1995. The public hearing will be held at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC, beginning at 9:30 a.m. on July 26, 1995. All persons will have the right to appear, by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed with the Secretary,

United States International Trade Commission, 500 E Street SW, Washington, DC 20436, no later than 5:15 p.m., July 13, 1995. The dates for filing documents have not changed: Any prehearing briefs (original and 14 copies) should be filed not later than 5:15 p.m., July 13, 1995, and the deadline for filing post-hearing briefs or statements is 5:15 p.m., August 1, 1995. Notice of institution of the investigation and the earlier scheduled hearing date was published in the **Federal Register** of May 10, 1995 (60 FR 24884).

In the event that, as of the close of business on July 13, 1995, no witnesses are scheduled to appear at the hearing, the hearing will be cancelled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary of the Commission (202–205–2000) after July 13, 1995, to determine whether the hearing will be held.

FOR FURTHER INFORMATION CONTACT: Cathy Jabara, Office of Industries (202–205–3309) or Jean Harman, Office of Industries (202–205–3313), or William Gearhart, Office of the General Counsel (202–205–3091) for information on legal aspects. The media should contact Margaret O'Laughlin, Office of Public Affairs (202–205–1819). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202–205–1810).

WRITTEN SUBMISSIONS: As provided for in the Commission's prior notice, in lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements concerning the matters to be addressed by the Commission in its report on this investigation. Commercial or financial information that a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary of the Commission for inspection by interested parties. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on August 1, 1995. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Issued: June 21, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–15686 Filed 6–26–95; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/ Information Resources Management/ Justice Management Division Suite 850, WCTR, Washington, DC 20530.

Extension of a Currently Approved Collection

(1) Application of Temporary Protected Status.

(2) FORM I–821. Immigration and Naturalization Service, United States Department of Justice.

(3) Primary: Individuals and households. Others: None. The information provided will be used by the Immigration and Naturalization Service to determine whether an applicant for Temporary Protected Status meets the eligibility requirements.

(4) 10,000 annual respondents at .5 hours per response.

(5) 5,000 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: June 21, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–15646 Filed 6–26–95; 8:45 am]

BILLING CODE 4410–10–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collections(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the

estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance officer, Systems Policy Staff/Information Resources Management/Justice Management Division Suite 850, WCTR, Washington, DC 20530.

Extension of a Currently Approved Collection

(1) Application of Temporary Replacement Card.

(2) FORM I–695. Immigration and Naturalization Service, United States Department of Justice.

(3) Primary: Individuals and households. Others: None. The information collected by this application will be used by the Immigration and Naturalization Service to consider application for replacement of temporary resident card. Also used to request a new card when previously issued, lost, stolen or destroyed.

(4) 100,000 annual respondents at .166 hours per response.

(5) 16,600 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: June 21, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–15645 Filed 6–26–95; 8:45 am]

BILLING CODE 4410–10–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Office of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division Suite 850, WCTR, Washington, DC 20530.

Extension of a Currently Approved Collection

(1) Application for Waiver of Grounds of Excludability.

(2) FORM I–690. Immigration and Naturalization Service, United States Department of Justice.

(3) Primary: Individuals and households. Others: None. The information furnished on the application will be used by the Immigration and Naturalization Service in considering eligibility for legalization under Section 210 and 245A of the Immigration and Naturalization Act, during the processing of both the application for temporary resident status and the application for permanent resident status.

(4) 52,800 annual respondents at .250 hours per response.

(5) 13,000 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: June 21, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–15651 Filed 6–26–95; 8:45 am]

BILLING CODE 4410–01–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with thee collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division Suite 850, WCTR, Washington, DC 20530.

Extension of a Currently Approved Collection

(1) Certificate of Eligibility for Nonimmigrant Student (F–1) Status—For Academic and Language Students.

(2) FORM I–20AB/ID. Immigration and Naturalization Service, United States Department of Justice.

(3) Primary: Individuals and households. Others: None. This Form will be used to collect information from nonimmigrant students attending schools in the United States in order that the Immigration and Naturalization Service can monitor the students' immigration status and ensure that the students do not violate the condition imposed by their nonimmigrant status while attending school.

(4) 210,000 annual respondents at .50 hours per response.

(5) 105,000 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: June 21, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–15650 Filed 6–26–95; 8:45 am]

BILLING CODE 4410–01–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/ Information Resources Management/ Justice Management Division Suite 850, WCTR, Washington, DC 20530.

Extension of a Currently Approved Collection

(1) Medical Examination of Aliens Seeking Adjustment of Status.

(2) FORM I–693. Immigration and Naturalization Service, United States Department of Justice.

(3) Primary: Individuals and households. Others: None. The information contained on this form/application will be used by the Immigration and Naturalization Service in considering eligibility for adjustment of status under section 219, 245, and 245A of the Immigration and Naturalization Act.

(4) 800,000 annual respondents at 1.50 hours per response.

(5) 1,200,000 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: June 21, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–15652 Filed 6–26–95; 8:45 am]

BILLING CODE 4410–10–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/ Information Resources Management/ Justice Management Division Suite 850, WCTR, Washington, DC 20530.

Extension of a Currently Approved Collection

(1) Freedom of Information/Privacy Act Request.

(2) FORM G–639. Immigration and Naturalization Service, United States Department of Justice.

(3) Primary: Individuals and households. Others: None. This form is provided as a convenient means for persons to provide data necessary for identification of a particular record desired under the Freedom of Information/Privacy Act.

(4) 25,000 annual respondents at .25 hours per response.

(5) 6,250 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: June 21, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–15649 Filed 6–26–95; 8:45 am]

BILLING CODE 4410–01–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/ Information Resources Management/ Justice Management Division Suite 850, WCTR, Washington, DC 20530.

Extension of a Currently Approved Collection

(1) Waiver of Rights, Privileges, Exemptions and Immunities.

(2) FORM I–508. Immigration and Naturalization Service, United States Department of Justice.

(3) Primary: Individuals and households. Others: None. The information furnished will be used by the Immigration and Naturalization Service to determine the eligibility of an alien applicant to retain the status of an alien lawfully admitted to the United States for permanent residence.

(4) 1,800 annual respondents at .083 hours per response.

(5) 150 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: June 21, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–15648 Filed 6–26–95; 8:45 am]

BILLING CODE 4410–01–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/ Information Resources Management/ Justice Management Division Suite 850, WCTR, Washington, DC 20530.

Extension of a Currently Approved Collection

(1) Notice of Naturalization Oath Ceremony.

(2) FORM N–445. Immigration and Naturalization Service, United States Department of Justice.

(3) Primary: Individuals and households. Others: None. The information furnished on the application refers only to what may have happened to the applicant after the preliminary interview and prior to the taking of the oath. Several months may elapse within those two events; the purpose for requesting the information is to enable the Immigration and Naturalization examiner to make and render an appropriate decision on the application.

(4) 380,000 annual respondents at .083 hours per response.

(5) 31,540 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: June 21, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–15647 Filed 6–26–95; 8:45 am]

BILLING CODE 4410–10–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—ATP Collaboration Team

Notice is hereby given that, on April 17, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the ATP Collaboration Team (''Team'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of involving the Act's provisions limiting the recovery of

antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to the Joint Venture are: Texas Instruments Incorporated, Dallas, TX; and PlasmaQuest, Inc., Richardson, TX.

The objective of the Team is to engage in cooperative research in the use of thin film technology for piezoelectric resonators and filters.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–15597 Filed 6–26–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to National Cooperative Research and Production Act of 1993—Automotive Collision Avoidance Systems Consortium

Notice is hereby given that, on April 21, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Automotive Collision Avoidance Systems Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Delco Electronics Corporation, Kokomo, IN; General Motors Corporation, Detroit, MI; Hughes Electronics Corporation, Los Angeles, CA; Environmental Institute of Michigan (ERIM), Ann Arbor, MI; Systems Technology, Inc. (STI), Hawthorne, CA; University of California—Davis, Davis, CA. The general area of planned activity is to develop vehicle technology involving sensors and electronics for application in collision avoidance.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–15598 Filed 6–26–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Information Infrastructure Testbed

Notice is hereby given that, on January 3, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the National Information Infrastructure Testbed (''NIIT'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the additional members of NIIT are: 3M Company, Austin, TX; American Medical Outcomes Repository, Torrance, CA; Caterpillar, Inc., East Peoria, IL; Denver Health & Hospitals/ Denver General Hospital, Denver, CO; Institute for Defense Analyses, Alexandria, VA; Lancet Online Corporation, Cambridge, MA; the Lewis Group, Woodinville, WA; Mid-continent Regional Educational Laboratory, Englewood, CO; NASA Commercial Remote Sensing Program, Stennis Space Center, MS; Network & Systems Consulting, Hermosa Beach, CA; and Pacific Northwest Laboratory, Richland, WA.

No other changes have been made in the membership, nature and objectives of the consortium. Membership in NIIT remains open, and the consortium intends to file additional written notifications disclosing all changes in membership.

On December 7, 1993, NIIT filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 18, 1994 (59 FR 25960).

The last notification was filed with the Department on August 9, 1994. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 23, 1995 (60 FR 15306).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–15601 Filed 6–26–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—CommerceNet Consortium

Notice is hereby given that, on April 25, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), CommerceNet Consortium, (the ''Consortium'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing certain changes in its membership. CommerceNet Consortium has had a name change. It was formerly known as Smart Valley CommerceNet Consortium, Inc. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identities of the additional members at the sponsor level are: Allan-Bradley Company, Inc., Albuquerque, NM; Electronic Data Systems, Plano, TX; Netscape Communications Corporation, Mountain View, CA; Nynex Corporation, Middleton, MA; Oracle Corporation, Redwood Shores, CA; Pitney Bowes, Shelton, CT; and Verifone Inc., Redwood City, CA.

The following organizations have joined the Consortium as associate members: Financial Services Technology Consortium, New York, NY; Frontier Technologies Corporation, Mequon, WI; First Data Corp., Palo Alto, CA; I/Pro, Palo Alto, CA; Los Alamos National Laboratory, Los Alamos, NM; National Automated Clearinghouse Assoc., Herndon, VA; Network Computing Devices, Mountain View, CA; Nihongo Yellow Pages, Inc. (ISM Services) San Jose, CA; Premier Industries, Chicago, IL; Union Bank, Monterey Park, CA; and Waltrip & Associates, Sacramento, CA. The following organizations have joined as international associate members: CSIR Information Services, Pretoria, SOUTH AFRICA; Japan Research Institute, Ltd, Tokyo, JAPAN; Kansai Institute of Information Systems, Osaka, JAPAN; Nippon Telephone & Telegraph Corporation, Tokyo, JAPAN; NEC Corporation, Tokyo, JAPAN; and Olivetti Telemedia S.P.A., Iveria (TO), ITALY. The following organizations were formerly sponsors but are now associates: American Express Company, Phoenix, AZ; Bellcore, Morristown, NJ; Dun & Bradstreet, Westport, CT; and The Santa Cruz Operation, Inc., Santa Cruz, CA.

No other changes have been made in either the membership or planned activities of the Consortium. Membership remains open, and the Consortium intends to file additional written notifications disclosing all changes in membership.

On June 13, 1994 the Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 31, 1994 (59 FR 45012).

The last notification was filed with the Department on January 18, 1995. A notice was published in the **Federal**

Register pursuant to section 6(b) of the Act on March 20, 1995 (60 FR 14780).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–15599 Filed 6–26–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Instream Corporation/ Axint Technologies Corporation Joint Venture

Notice is hereby given that, on February 22, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Instream Corporation/Axint Technologies Corporation Joint Venture has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: InStream Corporation, Woburn, MA; and Axint Technologies Corporation, Auburndale, MA.

The purpose of this venture is to develop, demonstrate, and produce an advanced technology product which converts paper-based commerce within the healthcare industry to an easy to use, low cost, accessible electronic format.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–15600 Filed 6–26–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petrotechnical Open Software Corporation

Notice is hereby given that, on April 19, 1995, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301, *et seq.* (''the Act''), Petrotechnical Open Software Corporation (''POSC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following additional parties have become new, non-voting members of POSC: Mincom, Inc., Houston, TX; Informix Software, Inc., Irving, TX; University of Petroleum, Beijing, PEOPLES REPUBLIC OF CHINA; U.S. Department of Interior, Bureau of Indian Affairs, Golden, CO; Paras, Isle of Wight, U.K.; Tobin Data Graphics, Denver, CO; Quinary, S.p.A., Milan, ITALY; Empress Software, Inc., Markham, Ontario, CANADA; CADDETC Operated By University of Leeds Innovations Ltd. Headingly, Leeds, U.K.; Los Alamos National Laboratory, Los alamos, NM; Steria, Velizy, FRANCE; Nanjing University, Nanjing, PEOPLES REPUBLIC OF CHINA; Global Software Corporation, Beijing, PEOPLES REPUBLIC OF CHINA.

No other changes have been made in either the membership or planned activity of POSC.

On January 14, 1991, POSC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 7, 1991, (56 FR 5021).

The last notification was filed with the Department on January 17, 1995. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 23, 1995, (60 FR 15305).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–15602 Filed 6–26–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Short Wavelength Optical Storage Consortium

Notice is hereby given that, on April 18, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Short Wavelength Optical Storage Consortium (the ''Consortium'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to the Joint Venture are: Minnesota Mining and Manufacturing Company, St. Paul, MN; International Business Machines Corporation, San Jose, CA; Philips Electronics N.V., Eindhoven, THE NETHERLANDS; and Philips Electronics North American Corporation, Briarcliff Manor, NY.

The objective of the venture is to perform a research program with the goal of development of advanced optical recording technologies achieving areal densities of 8 Gbit/in2 using Blue/Green Laser Diodes by the year 2000.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–15603 Filed 6–26–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—SmartOffice Industry Consortium

Notice is hereby given that, on March 31, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), SmartOffice Industry Consortium (the ''Joint Venture'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) The identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to the Joint Venture are: Advanced Peripherals Technologies, Inc., JAPAN; Canon Inc., JAPAN; Eastman Kodak Company, Rochester, NY; Fuji Xerox Co., Ltd., JAPAN; Fujitsu Limited, JAPAN; IBM Japan Ltd., JAPAN; Integrated Systems, Inc., Monterey CA; International Business Machines Corporation, Armonk, NY; Lexmark International, Inc., Lexington, KY; Matsushita Electric Industrial Co., Ltd., JAPAN; Minolta Co., Ltd., JAPAN; Mita Industrial Co., Ltd., JAPAN; Mitsubishi Electric Corporation, JAPAN; Murata Machinery, Ltd., JAPAN; Novell, Inc., Provo, UTAH; Ricoh Company, Ltd., JAPAN; Sanyo Electric Co., Ltd., JAPAN; Sharp Corporation, JAPAN; and Toshiba Corporation, JAPAN.

The objectives of the venture are to promote interoperability among devices, applications and services, across paper management, telephony, and computing domains; to support the goal of accessing information through interconnection of heterogeneous information appliances, independent of network and application providers, with a goal of perpetuating an exchange of information anytime, anywhere; and to

provide an open forum for discussion of topics related to its purpose.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–15604 Filed 6–26–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—TwinStar Semiconductor Incorporated

Notice is hereby given that, on April 17, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), TwinStar Semiconductor Incorporated (''TwinStar'') a joint venture, has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Texas Instruments Incorporated, Dallas, TX; Amro Participation Company N.V., Curacao, NETHERLANDS ANTILLES; The Bank of Tokyo, Ltd., Tokyo, JAPAN; The Dai-Ichi Kangyo Bank, Ltd., Tokyo, JAPAN; The Industrial Bank of Japan, Ltd., Tokyo, JAPAN; The Mitsubishi Trust and Banking Corp., Tokyo, JAPAN; Hitachi, Ltd., Tokyo, JAPAN; Atlantic Equity Corporation, Charlotte, NC; Citicorp, New York, NY; The Fuji Bank, Ltd., Tokyo, JAPAN; The Mitsubishi Bank, Ltd., Tokyo, JAPAN; The Nippon Credit Bank, Ltd., Tokyo, JAPAN; The Sanwa Bank, Ltd., Tokyo, JAPAN; The Yasuda Trust and Banking Co., Ltd., Tokyo, JAPAN; and The Tokai Bank, Ltd., Nagoya, JAPAN.

The purpose of this venture is the manufacture of dynamic random-access memory devices (16 megabit and above) and other semiconductor products and sale of such devices to Texas Instruments Incorporated and Hitachi, Ltd.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–15605 Filed 6–26–95; 8:45 am]

BILLING CODE 4410–01–M

Foreign Claims Settlement Commission

Claims Against Albania; Notice of Deadline for Filing of Claims

AGENCY: Foreign Claims Settlement Commission of the United States; Justice.

ACTION: Notice.

SUMMARY: This notice announces the commencement of the period for the filing of claims against the Government of Albania for the nationalization, expropriation, confiscation, or other taking of property of United States nationals by the former Albanian Communist regime, and the deadline for filing of such claims. Awards granted in the claims will be paid out of a $2 million compensation fund received from the Government of Albania under the terms of a claims settlement agreement concluded between the United States and Albania on March 10, 1995, effective April 18, 1995.

DATES: The deadline for filing of claims against the Government of Albania with the Foreign Claims Settlement Commission shall be October 31, 1995.

FOR FURTHER INFORMATION CONTACT: David E. Bradley, Chief Counsel, Foreign Claims Settlement Commission of the United States, U.S. Department of Justice, 600 E St. N.W., Room 6002, Washington, DC 20579, Tel. (202) 616–6975, FAX (202) 616–6993.

Notice of Time for Filing of Claims

I. Pursuant to section 4(b) of Title I of the International Claims Settlement Act of 1949, as amended (22 U.S.C. 1623(b)), the Foreign Claims Settlement Commission hereby gives notice that the period for the filing of claims against the Government of Albania for the nationalization, expropriation, confiscation, or other taking of property of United States nationals by the former Albanian Communist regime will begin on the date of publication of this notice and will end on October 31, 1995.

Any person or entity wishing to file such claims *must* request and complete an official Statement of Claim form (Form FCSC 1–95). The filing of a registration form in the Commission's 1992 claim survey will *not* be treated as sufficient to meet this requirement.

Requests for forms should be addressed to: Foreign Claims Settlement Commission of the United States, U.S. Department of Justice, 600 E St. N.W., Room 6002, Washington, DC 20579. Forms may also be requested by telephone, at (202) 616–6975, or by facsimile, at (202) 616–6993.

Completed forms and supporting documentation must be submitted no later than October 31, 1995. In particular, the following evidence and information must be included:

(1) Name and mailing address of each claimant and of his or her attorney, if any

(2) Evidence of United States nationality of the claimant and his or her predecessor(s), as applicable

(a) Individuals

(i) Native born—copy of birth certificate or passport

(ii) Naturalized—copy of naturalization certificate

(iii) Other (e.g., by birth abroad to U.S. citizens or through marriage to a U.S. citizen)—copies of relevant documents substantiating date of acquiring citizenship

Important Note: All individuals must also provide evidence establishing the date they began residence in the United States

(b) Corporations

(i) Certified copy of articles of incorporation;

(ii) Sworn statement of an officer of the corporation that natural persons who are citizens of the United States owned, directly or indirectly, at least 50 percent of the outstanding stock or other beneficial interest in the corporation at the time the claim arose and continuously thereafter until April 18, 1995, the effective date of the U.S.-Albania claims settlement agreement

(c) Partnerships or other legal entities

(i) Certified copy of the partnership agreement or articles of association; and

(ii) Evidence, as described in paragraphs (a) and (b) above, of the citizenship of those partners who were United States nationals at the times relevant to the claim.

(3) Evidence of ownership and value of property claimed

(a) Documents substantiating ownership of the property, such as purchase contracts, deeds, bills of sale, land register extracts. In the case of movable property, secondary evidence such as sworn statements describing the property may also be submitted, as well as any other relevant evidence. Regarding value, evidence such as photographs and drawings may also be submitted, as well as such other proof as evidence of value of comparable properties in the vicinity of the property in question.

(4) Evidence of the date and circumstances of the nationalization, expropriation, confiscation or other taking of the property claimed, including the amount of compensation, if any, received for that property

(5) Any other evidence or information in the possession of the claimant relevant to the facts of his or her claim

Additional information and supporting evidence may be required after a claim has been filed.

Approval has been obtained from the Office of Management and Budget for the collection of this information (OMB Control No. 1105–0062).

The Commission will conduct this program and render decisions therein in accordance with its regulations, which are published in Chapter V of Title 45, Code of Federal Regulations (45 CFR parts 500–531). In particular, attention is directed to § 531.6(d) of those regulations, which provides that the claimant shall bear the burden of proof on all elements of his or her claim. A copy of the regulations is available from the Commission on request.

Delissa A. Ridgway,

Chair.

[FR Doc. 95–15653 Filed 6–26–95; 8:45 am]

BILLING CODE 4410–01–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of June, 1995.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Nagative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–30,924; Astronautics Corp of America, Plant #2 and Plant #2, Milwaukee, WI

TA–W–31,081; B&G Equipment Co., Plumsteadville, PA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–31,012; Rogerson Aircraft Corp., Port Angeles, WA

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–30,943; MK Rail, Boise, ID

Increased imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations for Worker Adjustment Assistance

TA–W–31,020; Boeing of Wichita, Wichita, KS

A certification was issued covering all workers separated on or after May 3, 1994.

TA–W–31,117; Dante Fashions Corp., Jeannette, PS

A certification was issued covering all workers separated on or after May 22, 1994.

TA–W–31,024; Legends Manufacturing, Inc., Throop, PA

A certification was issued covering all workers separated on or after April 20, 1994.

TA–W–30,892; Central Products Co., Linden, NJ

A certification was issued covering all workers separated on or after March 22, 1994.

TA–W–30,884; Pine Grove Woolens, Inc., Pine Grove, PA

A certification was issued covering all workers separated on or after March 24, 1994.

TA–W–31,086; & A; Carus Chemical Co., Peru, IL & LaSalle, IL

A certification was issued covering all workers separated on or after May 19, 1994.

TA–W–31,062; ABC Manufacturing Corp., Ashland, MS

A certification was issued covering all workers separated on or after May 10, 1994.

TA–W–30,901; Caron International Rochelle, IL

A certification was issued covering all workers separated on or after March 21, 1994.

TA–W–31,068; Clinton Swan Clothes, Inc., Carlstad, NJ

A certification was issued covering all workers separated on or after April 25, 1994.

TA–W–30,985; FHF Apparel, Miami, FL

A certification was issued covering all workers separated on or after April 24, 1994.

TA–W–31,031; Mahan Western Industries, Inc., A/K/A Miller Manufacturing, El Paso, TX

A certification was issued covering all workers separated on or after May 4, 1994.

TA–W–30,941; Miller Brewing Co., Fulton, NY

A certification was issued covering all workers separated on or after April 6, 1994.

TA–W–31,026; Hubbell-Bell, Inc., Fogelsville, PA

A certification was issued covering all workers separated on or after February 5, 1994.

TA–W–31,040; Mobile Tech, Inc., Abingdon, VA

A certification was issued covering all workers separated on or after May 9, 1994.

TA–W–30,910; Lakeview Lumber Products Co., Lakeview, OR

A certification was issued covering all workers separated on or after March 22, 1994.

TA–W–31,127; Norcross Footwear, Inc., Paterson, NJ

A certification was issued covering all workers separated on or after June 6, 1994.

TA–W–30,915; Circuit Tech, Inc., Wareham, MA

A certification was issued covering all workers separated on or after March 28, 1994.

TA–W–30,931; Waymart Knitting Co., Inc., Waymart, PA

A certification was issued covering all workers separated on or after April 1, 1994.

TA–W–31,095; Titanium Metals Corp (TIMET), Tremont Div., Henderson, NV

A certification was issued covering all workers separated on or after April 7, 1994.

TA–W–30,911; Ferno Washington, Soft Goods Dept/Extrication Devices Wilmington, OH

A certification was issued covering all workers separated on or after March 23, 1994.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of June 1995.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(A) that sales or production, or both, of such firm or subdivision have decreased absolutely

(B) that imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased.

(C) that the increase in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(2) that there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

NAFTA–TAA–00458; The Travelers, Voorhees, NJ

The investigation revealed that criteria (3) and (4) were not met. There was no shift in the processing of medical claims from The Travelers, Voorhees, NJ to Mexico or Canada during the period under investigation. A portion of this work is being transferred to other domestic locations.

NAFTA–TAA–00474; Scout Trucking, Inc., Spring City, PA

The investigation revealed that the workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

NAFTA–TAA–00456; Noll Printing, Inc., Huntington, IN

The investigation revealed that criteria (3) and (4) were not met. Major customers of the subject firm were surveyed regarding their purchases of printed material. All respondents reported that they did not import the product in question from Mexico or Canada.

NAFTA–TAA–00464; Penn Ventilator Co., Inc., Keyser, WV

The investigation revealed that criteria (2), (3) and (4) were not met. Management decisions have been made to outsource dampers from two domestic companies. A departmental survey conducted with the tow companies revealed that they produce 100% of all dampers domestically.

NAFTA–TAA–00452; Rogerson Aircraft Corp., Rogerson Hiller/ Aerocomposites, Port Angeles, WA

The investigation revealed that criteria (3) and (4) were not met. There was no shift in production of aircraft parts from the Port Angeles, WA plant to Canada or Mexico during the period under investigation. U.S. imports of aircraft parts from Canada and Mexico declined in December through November, 1993–1994, compared with the same period one year earlier.

NAFTA–TAA–00454; Riley Stoker Corp., Div. of DB Riley Consolidated, Inc., Erie Plant, Erie, PA

The investigation revealed that criteria (3) and (4) were not met. There was no shift in production from the subject plant to Mexico or Canada during the period under investigation, nor were boilers and related equipment imported to Mexico or Canada by the subject firm.

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–00459; Usher Products International, Inc., San Antonio, TX

A certification was issued covering all workers at Usher Products International, Inc., San Antonio, TX separated on or after May 15, 1994.

NAFTA–TAA–00478; Rich Products Corp., Dayton, OH

A certification was issued covering all workers at Rich Products Corp., Dayton, OH separated on or after May 30, 1994.

NAFTA–TAA–00455; Ada Block Co., Ada, OK

A certification was issued covering all workers at Ada Block Co., Ada, OK separated on or after May 5, 1994.

NAFTA–TAA–00451; FHF Apparel Corp., Miami, FL

A certification was issued covering all workers at FHF Apparel Corp., Miami, FL separated on or after May 4, 1994.

NAFTA–TAA–00476; Esselte Pendaflex Corp., Syracuse, NY

A certification was issued covering all workers at Esselte Pendaflex Corp., Syracuse, NY separated on or after May 25, 1994.

NAFTA–TAA–00460; Blind Design, Inc., Tempe, AR

A certification was issued covering all workers at Blind Design, Inc., Tempe, AR separated on or after May 15, 1994.

NAFTA–TAA–00330; Melnor, Inc., Moonachie, NJ

A certification was issued covering all workers at Melnor, Inc., Moonachie, NJ separated on or after December 21, 1993.

NAFTA–TAA–00373; Cleveland Twist Drill Co., Cynthiana, KY

A certification was issued covering all workers at Cleveland Twist Drill Co., Cynthiana, KY separated on or after February 14, 1994.

NAFTA–TAA–00384; Pillowtex Corp., Dallas, TX

A certification was issued covering all workers at Pollowtex Corp., Dallas, TX separated on or after February 28, 1994.

I hereby certify that the aforementioned determinations were issued during the months of June, 1995. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: June 20, 1995.

Victor J. Trunzo,

Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–15747 Filed 6–26–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,975]

Halliburton, Midland, TX; Notice of Revocation of Negative Determination

This notice revokes the Notice of Negative Determination Regarding Eligibility to Apply For Worker Adjustment Assistance issued May 24, 1995 for petition TA–W–30,975. The notice will soon be published in the **Federal Register**.

The notice is revoked since it was issued prematurely. The workers of Halliburton, Midland, Texas are covered under an existing certification, TA–W–30,031B.

Signed in Washington, DC., this 14th day of June 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–15742 Filed 6–26–95; 8:45 am]

BILLING CODE 4510–30–M

Notice of Termination of Investigation

TA–W–31,053—OXY USA, Incorporated Midland, Texas
TA–W–31,054—Hobbs, New Mexico
TA–W–31,055—Bakersfield, California

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 22, 1995 in response to a worker petition which was filed on behalf of workers at OXY USA, Incorporated.

All workers of the subject firms are covered under existing certification (TA–W–31,049; TA–W–31,051 and TA–W–31,052). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 20th day of June, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–15744 Filed 6–26–95; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA–00405]

Paragon Trade Brands, Incorporated City of Industry, California; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Program Manager of the Office of Trade Adjustment Assistance for workers at Paragon Trade Brands, Inc., City of Industry, California. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

NAFTA–00405; Paragon Trade Brands, Incorporated City of Industries, CA (June 14, 1995)

Signed at Washington, D.C. this 19th day of June, 1995.

Victor J. Trunzo,

Program Manager, Policy & Reemployment Services Office of Trade Adjustment Assistance.

[FR Doc. 95–15746 Filed 6–26–95; 8:45 am]

BILLING CODE 4510–30–M

Job Training Partnership Act: Migrant and Seasonal Farmworker Programs; Final Allocations

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of final allocations.

SUMMARY: The Employment and Training Administration is publishing final allocations for Program Year (PY) 1995 (July 1, 1995 through June 30, 1996) for the Job Training Partnership Act section 402 migrant and seasonal farmworker program.

FOR FURTHER INFORMATION CONTACT: Mr. Charles C. Kane, Chief, Division of Seasonal Farmworker Programs. Telephone: (202) 219–5500 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Employment and Training Administration publishes the final allocation for Program Year 1995 (July 1, 1995–June 30, 1996).

The allocations set forth in the appendix to this notice were computed according to the allocation formula published at 59 FR 17577 (April 13, 1994). For PY 1995, $85,710,000 were appropriated for migrant and seasonal farmworker programs. This amount is an increase of $134,000 above the appropriation for PY 1994. This appropriation is subject to reduction depending upon possible rescissions for FY 1995. Each year since 1987, additional funds have been included to meet the demand for training and employment services to Special Agricultural Workers (SAWs) who became eligible for the program as a result of the Immigration Reform and Control Act of 1986. In addition, the reports of the House of Representatives and the Senate Committees on Appropriations on the Department of Labor's 1995 appropriations state that the committees expect the Department to continue the farmworker housing program. The Department concurs with this request.

The allocation formula is being applied to $81,832,000. The remaining $3,878,000 of the PY 1995 section 402 appropriation is being held in the section 402 national account to fund the housing program ($3,000,000), the Hope, Arkansas, Migrant Rest Center ($300,000), and other training and technical assistance projects.

Allocation Formula

As stated above, the $81,832,000 formula total was allocated on a State-by-State basis using the same formula that was applied in PY 1994. This ensures programmatic stability.

Formula Allocations in Future Years

The Department intends to update the allocation formula to incorporate more current data on the farmworker population. To this end, in April 1994, a special task force was convened to explore options for revising the formula and its bases. Findings from this task force will be reflected in a new proposed allocation formula which will be published in the **Federal Register** for comment.

Signed at Washington, DC, this 21st day of June, 1995.

Paul A. Mayrand,

Director, Office of Special Targeted Programs.

[FR Doc. 95–15745 Filed 6–26–95; 8:45 am]

BILLING CODE 4510–30–M

Pension and Welfare Benefits Administration

Work Group on Defined Contribution Adequacy Advisory Council on Employee Welfare and Pension Benefits Plan; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Work Group on Defined Contribution Adequacy of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on July 18, 1995, in Room N3437 A&B, U.S. Department of Labor Building, Third and Constitution Avenue, N.W., Washington, DC 20210.

The purpose of the meeting, which will begin at 9:30 a.m., is to obtain further evidence and data concerning defined contribution plans as an adequate source of retirement income when serving as primary plans. The Work Group will also address the potential policy issues, such as:

1. In terms of the adequacy of overall retirement income, are 401(k) plans simply substituting for other types of savings, such as other pension plans or personal savings? Have 401(k)s led to expanded pension coverage? What is the evidence?

2. Is the trend towards 401(k) plans likely to contribute to greater pension inequities between low and higher income workers—even with the current contribution limits?

3. What are the main barriers to improving contribution rates besides education—i.e., stagnant wages and other economic trends, and is it realistic to assume that we can meet contribution levels that are even close to the target levels?

4. What regulatory and tax law changes have had, and would likely

have, the greatest impact on our pension savings goals?

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before July 10, 1995 to Linda Jackson, Acting Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Advisory Council should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before July 10, 1995.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 95–15678 Filed 6–26–95; 8:45 am]

BILLING CODE 4510–29–M

Pension and Welfare Benefits Administration

Work Group on Real Estate Investment Advisory Council on Employee, Welfare and Pension Benefits Plan; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Real Estate Investment Work Group of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on July 18, 1995, in Room N3437 A&B, U.S. Department of Labor Building, Third and Constitution Avenue, N.W., Washington, DC 20210.

The purpose of the meeting, which will begin at 1:00 p.m. is to explore real estate valuation methods and process: Is it adequate? Is it clear? What are the current best practices? The work group will hear testimony from witnesses representing the independent appraisal community, a real estate investment adviser, the clearinghouse for the secondary market and a pension plan sponsor that includes real estate in its plan's investment portfolio.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before July 10, 1995 to Linda Jackson, Acting Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, N.W., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Advisory Council should forward there request to the acting Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the acting Executive Secretary of the Advisory Council at the above address. papers will be accepted and included in the record of the meeting if received on or before July 10, 1995.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 95–15679 Filed 6–26–95; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Establishment of New Membership on the NASA/Industry Process Action Team for Procurement Issues

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice.

SUMMARY: Notice is given of the establishment of the FY 1996 NASA/Industry Process Action Team. NASA is soliciting the names of NASA Contractor personnel who desire to serve on this team.

DATES: Requests for membership must be received on or before September 1, 1995.

FOR FURTHER INFORMATION CONTACT: Tom O'Toole, NASA Headquarters, Code HC, 300 E Street SW., Washington, DC 20546, telephone (202) 358–0478.

SUPPLEMENTARY INFORMATION: The Associate Administrator for Procurement has established a working group of NASA and industry representatives called the NASA/Industry Process Action Team (PAT). The PAT provides a forum for the examination and discussion of issues and concerns associated with improving the operational aspects of current procurement policies and procedures. Members are afforded the opportunity to identify issues and concerns to be addressed by NASA during the PAT's tenure and to provide their individual or organizational viewpoints on procurement policy and procedure changes developed by NASA. Based on the issues and concerns discussed during the PAT meetings, PAT members may be asked to assist in the presentation of an industry-wide conference on procurement issues. Membership is open to NASA contractors of any size willing to commit two people (primary/alternate) for a one year term. The planned PAT will consist of approximately 20 members from industry, both large and small businesses, four NASA representatives, a member from the U.S. Chamber of Commerce, and a member from a law firm with Government contracts experience. The PAT will meet quarterly, unless the number and complexity of policy issues under consideration merit more frequent meetings.

NASA contractors and law firms that desire membership on the PAT should contact the person listed under the caption **FOR FURTHER INFORMATION CONTACT** not later than September 1, 1995.

Thomas J. O'Toole,

NASA/Industry PAT Chairperson.

[FR Doc. 95–15743 Filed 6–26–95; 8:45 am]

BILLING CODE 7510–01–M

[Notice 95–042]

NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Astrophysics Subcommittee (ASC), Meeting.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science Advisory Committee, Astrophysics Subcommittee.

DATES: Thursday, July 27, 1995, 8:30 a.m. to 5:00 p.m.; and Friday, July 28, 1995, 8:30 a.m. to 3:30 p.m.

ADDRESSES: NASA Headquarters, Conference Room MIC 6–A/B West, 300 E Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Guenter Riegler, Code SZ, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0339.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda

for the meeting includes the following topics:

—Overview of Astrophysics Division Status
—Status of NASA HQ Streamlining/Reorganization
—Branch Reports
—Mission Reports
—Update on Recent Proposal Reviews
—Update on Educational Strategic Planning
—Discussion and Formulation of Recommendations/Action Items

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: June 20, 1995.

Danalee Green,

Chief, Management Controls Office.

[FR Doc. 95–15663 Filed 6–26–95; 8:45 am]

BILLING CODE 7510–01–M

[Notice 95–043]

NASA Advisory Council (NAC), Minority Business Resource Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Minority Business Resource Advisory Committee.

DATES: July 20, 1995, 9 a.m. to 4 p.m.

ADDRESSES: NASA, Jet Propulsion Laboratory, Building 180, Room 101, Pasadena, California 91109–8099.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph C. Thomas, III, Office of Small and Disadvantaged Business Utilization, National Aeronautics and Space Administration, Room 9K70, 300 E Street SW., Washington, DC 20546, (202) 358–2088.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Call to Order
—Reading of Minutes
—Overview of Jet Propulsion Laboratory SDB Program
—Report on Supreme Court Decision
—Subcommittee Reports
—Update on NASA SDB Program
—Report on Action Items from Last Meeting
—Public Comment
—Adjournment

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Dated: June 20, 1995.

Danalee Green,

Chief, Management Controls Office.

[FR Doc. 95–15662 Filed 6–26–95; 8:45 am]

BILLING CODE 7510–01–M

[Notice 95–045]

Notice of Intent To Grant a Partially Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant a patent license.

SUMMARY: NASA hereby gives notice of intent to grant Photo Emission Technology, Inc., 766 Lakefield Road, Suite H, Westlake Village, CA 91361, a license to practice the invention protected by U.S. Patent No. 5,393,980, entitled ''Quality Monitor And Monitoring Technique Employing Optically Stimulated Electron Emission,'' which was issued on February 28, 1995, to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The partially exclusive license will contain appropriate terms and conditions to be negotiated in accordance with ''Licensing of Government Owned Inventions,'' (37 CFR 404.1 *et seq.*). NASA will negotiate the final terms and conditions and grant the license unless, within 60 days of the date of this notice, the cognizant Patent Attorney receives written objections to the grant, together with supporting documentation. The Patent Attorney will review all written responses to this notice and then recommend to the Associate General Counsel for Intellectual Property whether to grant the license.

DATES: Responses to the notice must be received by August 28, 1995.

ADDRESSES: NASA Langley Research Center, 3 Langley Boulevard, Mail Stop 212, Hampton, VA 23681–0001.

FOR FURTHER INFORMATION CONTACT: Kimberly A. Chasteen, Patent Attorney, 804–864–3227.

Dated: June 20, 1995.

Edward A. Frankle,

General Counsel.

[FR Doc. 95–15664 Filed 6–26–95; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

Proposed Generic Communication; Relocation of Selected Technical Specifications Requirements Related to Instrumentation

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of opportunity for public comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to issue a generic letter regarding the relocation of selected technical specifications requirements related to instrumentation. The NRC is seeking comment from interested parties regarding both the technical and regulatory aspects of the proposed generic letter presented under the Supplementary Information heading. This proposed generic letter and supporting documentation were endorsed for publication in the **Federal Register** by the Committee to Review Generic Requirements (CRGR) on June 15, 1995. The relevant information that was sent to the CRGR to support their review of the proposed generic letter is available in the NRC Public Document Room under accession number 9506160308. The NRC will consider comments received from interested parties in the final evaluation of the proposed generic letter. The NRC's final evaluation will include a review of the technical position and, when appropriate, an analysis of the value/impact on licensees. Should this generic letter be issued by the NRC, it will become available for public inspection in the NRC Public Document Room.

DATES: Comment period expires July 27, 1995. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: Submit written comments to Chief, Rules Review and Directives Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Written comments may also be delivered to 11545 Rockville Pike, Rockville, Maryland, from 7:30 am to 4:15 pm, Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: William D. Reckley, (301) 415–1314.

SUPPLEMENTARY INFORMATION:

NRC Generic Letter 95–XX: Relocation of Selected Technical Specifications Requirements Related to Instrumentation

Addressees

All holders of operating licenses or construction permits for nuclear power reactors except Crystal River, Grand Gulf, Clinton, and Hatch, Units 1 and 2.

Purpose

The U.S. Nuclear Regulatory Commission (NRC) is issuing this generic letter to advise those licensees that have not converted or are not in the process of converting to the improved Standard Technical Specifications that they may request a license amendment to relocate selected instrumentation requirements from their Technical Specifications (TS).

Description of Circumstances

This line-item TS improvement was developed in response to TS amendments proposed by licensees and ongoing NRC TS improvement programs. The intent of this generic letter is to reduce the time and costs spent by licensees and the NRC staff in amending requirements related to the selected instrumentation-related TS. Licensees will reduce cost by relocating requirements to a licensee-controlled document or program so that future changes to those requirements would not necessarily involve a license amendment. The time and cost of NRC staff review is reduced by the use of internal guidance for the review of generic letter-related amendments and the reduction in the number of plant-specific changes to the affected TS.

Discussion

Section 182a of the Atomic Energy Act (the Act) requires applicants for nuclear power plant operating licenses to include TS as part of the license. In Section 50.36 of Title 10 of the Code of Federal Regulations (10 CFR 50.36), the Commission established the regulatory requirements related to the content of TS. That regulation requires that the TS include items in five specific categories, including (1) safety limits, limiting safety system settings and limiting control settings; (2) limiting conditions for operation; (3) surveillance requirements; (4) design features; and (5) administrative controls. However, the regulation does not specify the particular requirements to be included in TS.

The NRC developed criteria, as described in the ''Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors'' (58 FR 39132), to determine which of the design conditions and associated surveillances should be located in the TS as limiting conditions for operation. The four criteria provided in the Final Policy Statement are:

(1) Installed instrumentation that is used to detect, and indicate in the control room, a significant abnormal degradation of the reactor coolant pressure boundary;

(2) a process variable, design feature, or operating restriction that is an initial condition of a Design Basis Accident or Transient analysis that either assumes the failure of or presents a challenge to the integrity of a fission product barrier;

(3) a structure, system, or component that is part of the primary success path and which functions or actuates to mitigate a Design Basis Accident or Transient that either assumes the failure of or presents a challenge to the integrity of a fission product barrier;

(4) a structure, system, or component which operating experience or probabilistic safety assessment has shown to be significant to public health and safety.

The Commission recently promulgated a proposed change to 10 CFR 50.36 pursuant to which the rule would be amended to codify and incorporate these criteria (see Proposed Rule, ''Technical Specifications,'' 59 FR 48180 (September 20, 1994)).

The Commission's Final Policy Statement acknowledged that its implementation may cause some requirements presently in TS to be moved out of existing TS to documents and programs controlled by licensees. This generic letter addresses the relocation of selected TS requirements related to instrumentation as a result of the consideration of the final policy statement criteria. Upon review of typical TS for nuclear power reactors, the staff determined that, in accordance with the policy statement criteria, several specifications did not warrant inclusion in TS. The staff also concluded that the instrumentation addressed by these specifications are not related to dominant contributors to plant risk. The following typical TS are among the candidates for relocation to licensee-controlled documents:

- Incore Detectors (Movable Incore Detectors, Transversing Incore Probe).
- Seismic Monitoring Instrumentation.
- Meteorological Monitoring Instrumentation.
- Chlorine Detection System.
- Loose-Part Detection System.
- Explosive Gas Monitoring Instrumentation.
- Turbine Overspeed Protection.

Requested Information

Licensees who voluntarily choose to use the guidance in this generic letter will need to submit license amendment requests in order to relocate the affected technical specifications. These licensees are encouraged to propose TS changes consistent with the guidance in Attachment 1 to this generic letter.

Licensees who do not wish to amend technical specifications are not expected to submit any response to this generic letter.

Required Response

Licensees who voluntarily choose to use the guidance in this generic letter are required to submit license amendment requests in order to relocate affected technical specification requirements.

Licensee requests should be submitted to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555, under the provisions of 10 CFR 50.90.

Backfit Discussion

This generic letter only requests information under the provisions of 10 CFR 50.90 from addressees who voluntarily choose to use the contained guidance to seek an amendment of an operating license. Any action by licensees to propose TS changes in accordance with the guidance of this generic letter is voluntary and, therefore, not a backfit under 10 CFR 50.109. Therefore, the staff has not performed a backfit analysis.

Attachment 1—Guidance for a Proposed License Amendment to Relocate Selected Technical Specifications Requirements Related to Instrumentation

Introduction

The NRC is issuing the following guidance for preparing a proposed license amendment to relocate from Technical Specifications (TS) selected requirements related to instrumentation. As discussed in the Final Policy Statement, licensees submitting amendment requests should identify the location of and controls for the relocated requirements. It is expected that most of the TS addressed by this generic letter will be relocated to the Updated Final Safety Analysis Report (UFSAR) and changes to those provisions will be performed in accordance with 10 CFR 50.59, ''Changes, tests and experiments.'' If requirements are relocated to other documents (e.g., the emergency plan), controls may be

provided by regulatory requirements such as 10 CFR 50.54, ''Conditions of licenses.'' The adequacy of controls for relocated provisions which do not fit in the above categories will be reviewed and approved by the NRC staff on a case-by-case basis.

License amendment requests should contain a commitment to relocate each selected requirement to a particular licensee-controlled document or program, (e.g., the UFSAR or the emergency plan). The commitment should also address the submittal of the revised documents to the NRC in accordance with the applicable regulation (e.g., 10 CFR 50.71(e)). In the amendment request, the licensee should clearly describe the program it will use to control changes to relocated provisions (e.g., 10 CFR 50.59 or 50.54(q)). Control of the relocated provisions in accordance with the applicable regulation ensures that NRC review and approval will be requested for changes exceeding the stated regulatory threshold (e.g., unreviewed safety question or decrease in effectiveness).

Licensees should note that this generic letter supersedes TS-related guidance contained in several previously issued NRC documents, such as regulatory guides and the Standard Review Plan (NUREG–0800). Commitments contained in the UFSAR or other docketed correspondence may need to be revised to reflect the deviations from these NRC documents. However, this generic letter addresses only the need to include requirements related to the affected systems in TS. Staff positions on matters other than TS content that are contained in the regulatory guides or other documents are not affected by the issuance of this generic letter.

The NRC has approved the relocation of most of these specific instrumentation requirements in various amendments issued to specific licensees. The improved standard TS also reflect the staff position that these requirements do not satisfy the final policy statement criteria for inclusion in TS. The staff has also concluded that these provisions are not related to dominant contributors to plant risk. Additional discussions follow for each of the selected relocated instrumentation requirements.

Incore Detectors

The relocation of requirements related to incore neutron detectors affects the TS sections entitled ''Incore Detectors'' or ''Movable Incore Detectors,'' for pressurized water reactors (PWRs), or ''Transversing Incore Probe,'' for boiling water reactors (BWRs). Incore instrumentation is used periodically to calculate power peaking factors in order to verify nuclear design predictions, ensure operation within established fuel performance limits, and to calibrate other nuclear instrumentation. The measurements are used in a confirmatory manner and do not provide direct input to reactor protection system or engineered safety features actuation system functions.

These instruments are neither used for, nor capable of, detecting a significant abnormal degradation of the reactor coolant pressure boundary prior to a design basis accident nor do they function as a primary success path to mitigate events which assume the failure of or challenge the integrity of fission product barriers. Although the core power distributions (measured by the incore detectors) constitute an important initial condition to design basis accidents and therefore need to be addressed by TS, the detectors themselves are not an active design feature needed to preclude analyzed accidents or transients. The staff has determined therefore, that the incore detector requirements do not satisfy the criteria of the Final Policy Statement for inclusion in TS. Licensees may propose to relocate the incore detector requirements to the UFSAR and control changes to those provisions in accordance with 10 CFR 50.59.

Relocation of the incore detector requirements from the TS to the UFSAR does not imply any reduction in their importance in confirming that core power distributions are bounded by safety analysis limits. It is expected that licensees will continue to maximize the number of available incore detectors. Evaluations related to changes in incore detector requirements are expected to consider such factors as the need to identify the inadvertent loading of a fuel assembly into an improper location, the calibration of protection systems using incore measurements, and the allowances for measurement and nuclear design uncertainties. Should these or other considerations lead to the identification of a proposed change as an unreviewed safety question, the licensee should request NRC review and approval in accordance with 10 CFR 50.59(c).

Seismic Monitoring Instrumentation

Section VI(a)(3) of Appendix A to 10 CFR Part 100 requires that seismic monitoring instrumentation be provided to promptly determine the response of those nuclear power plant features important to safety in the event of an earthquake. This capability is required to allow for a comparison of the measured response to that used in the design basis for the unit. Comparison of such data is needed to (1) determine whether the plant can continue to be operated safely, and (2) permit such timely action as may be appropriate. However, seismic instrumentation does not actuate any protective equipment or serve any direct role in the mitigation of an accident.

The capability of the plant to withstand a seismic event or other design-basis accident is determined by the initial design and construction of systems, structures, and components. The instrumentation is used to alert operators to the seismic event and evaluate the plant response. The Final Policy Statement explained that instrumentation to detect precursors to reactor coolant pressure boundary leakage, such as seismic instrumentation, is not included in the first criterion. As discussed above, the seismic instrumentation does not serve as a protective design feature or part of a primary success path for events which challenge fission product barriers. The staff has concluded that the seismic monitoring instrumentation does not satisfy the final policy statement criteria and need not be included in the TS. Licensees may propose to relocate the seismic monitoring instrumentation requirements to the UFSAR and control changes to those provisions in accordance with 10 CFR 50.59.

Meteorological Monitoring Instrumentation

In 10 CFR 50.47, ''Emergency Plans,'' and 10 CFR Part 50, Appendix E, ''Emergency Planning and Preparedness for Production and Utilization Facilities,'' the Commission requires power plant licensees to provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. Timely access to accurate local meteorological data is important for estimating potential radiation doses to the public and for determining appropriate protective measures. In 10 CFR 50.36a(a)(2), the Commission requires nuclear power plant licensees to submit annual reports specifying the quantity of each of the principal radionuclides released to unrestricted areas in liquid and airborne effluents and such other information as may be required by the NRC to estimate maximum potential annual radiation doses to the public. A knowledge of meteorological conditions in the vicinity of the reactor is important in providing a basis for estimating annual radiation doses resulting from

radioactive materials released in airborne effluents. Accordingly, the meteorological monitoring instrumentation serves a useful function in estimating radiation doses to the public from either routine or accidental releases of radioactive materials to the atmosphere.

The meteorological monitoring instrumentation does not serve such a primary protective function as to warrant inclusion in the TS in accordance with the criteria of the final policy statement. The instrumentation does not serve to ensure that the plant is operated within the bounds of initial conditions assumed in design basis accident and transient analyses or that the plant will be operated to preclude transients or accidents. Likewise, the meteorological instrumentation does not serve as part of the primary success path of a safety sequence analysis used to demonstrate that the consequences of these events are within the appropriate acceptance criteria. Accordingly, the staff has concluded that the meteorological instrumentation does not satisfy the final policy statement criteria and need not be included in TS. The staff has determined that requirements related to the meteorological monitoring instrumentation can be moved from the TS to the UFSAR, and that any subsequent changes to the provisions would be controlled pursuant to 10 CFR 50.59. Licensees may alternately choose to relocate the meteorological monitoring instrumentation requirements from the TS to the facility's emergency plan. In this case, subsequent changes would be made in accordance with 10 CFR 50.54(q).

Chlorine Detection System

Chlorine detection systems ensure that sufficient capability is available to promptly detect and initiate protective action to isolate the control room in the event of an accidental chlorine release. Some plants may also have systems to detect other toxic gases which have the potential to hamper plant operation in the case of their accidental release from onsite or offsite sources. The relocation of TS related to other toxic gas detection systems is included in this discussion for the typical chlorine detection systems. Staff positions regarding the relationship of the chlorine detection systems to the general design criteria (GDC) appear in NUREG–0800, ''Standard Review Plan'' (SRP); Regulatory Guide (RG) 1.78, ''Assumptions for Evaluating the Habitability of a Nuclear Power Plant Control Room During a Postulated Hazardous Chemical Release''; and RG 1.95, ''Protection of Nuclear Power Plant Control Room Operators Against an Accidental Chlorine Release.''

As discussed above, chlorine detection systems may serve an important role in the protection of control room personnel from internal or external hazards related to toxic gases. However, the release of chlorine or other hazardous chemicals is not part of an initial condition of a design basis accident or transient analysis that assumes a failure of or presents a challenge to the integrity of a fission product barrier. Since the release of toxic gases is not assumed to initiate or occur simultaneously with design basis accidents or transients involving challenges to fission product barriers, the chlorine detection system is not part of a success path for the mitigation of those accidents or transients. The staff has, therefore, concluded that requirements for this system do not satisfy the final policy statement criteria and need not be included in TS. Licensees may propose to relocate the chlorine detection system requirements to the UFSAR and control changes to those provisions in accordance with 10 CFR 50.59.

Loose-Part Detection System

The loose-part detection system identifies the existence of possible loose parts in the reactor coolant system. Early detection can provide operators time to take corrective actions and avoid or mitigate damage to or malfunctions of primary system components. However, as discussed in the final policy statement, the loose-part detection system does not function to detect significant abnormal degradation of the reactor coolant pressure boundary. The loose-part detection system does not serve as an active design feature for establishing initial conditions or mitigation of design basis accidents or transients. The staff has concluded that requirements for this system do not satisfy the final policy statement criteria and need not be included in TS.

Licensees may propose to relocate the requirements related to the loose-part detection system from the TS to the UFSAR and control changes to those provisions in accordance with 10 CFR 50.59.

Explosive Gas Monitoring Instrumentation

The relocation of most of the instrumentation related to radioactive gaseous effluent monitoring was addressed in Generic Letter 89–01, ''Implementation of Programmatic Controls for Radiological Effluent Technical Specifications [RETS] in the Administrative Controls Section of the Technical Specifications and the Relocation of Procedural Details of RETS to the Offsite Dose Calculation Manual or the Process Control Program.'' Relocation of the requirements for explosive gas monitoring instrumentation was not addressed in the guidance provided by Generic Letter 89–01. Staff positions regarding the monitoring of explosive gases within the radioactive waste management systems are outlined in SRP Section 11.3 and Branch Technical Position ETSB–11–5, ''Postulated Radioactive Releases Due to a Waste Gas System Leak or Failure.''

The actions required by existing TS typically require alternate sampling, limited operation of the gaseous waste system, and submittal of a special report if the explosive gas monitoring instrumentation does not conform to the limiting condition for operation. The explosive gas monitoring instrumentation requirements address detection of possible precursors to the failure of a waste gas system but do not prevent or mitigate design basis accidents or transients which assume a failure of or present a challenge to a fission product barrier. Acceptable concentrations of explosive gases are actually controlled by other limiting conditions for operation (e.g., Gaseous Effluents, Explosive Gas Mixture) or by programs described in the ''Administrative Controls'' section of TS. The requirements related to explosive gas monitoring instrumentation do not conform to the final policy statement criteria for inclusion in the TS. Therefore, licensees may propose to relocate the explosive gas monitoring instrumentation requirements to the UFSAR and control changes to those provisions in accordance with 10 CFR 50.59.

Turbine Overspeed Protection

Existing TS typically include limiting conditions for operation and surveillance requirements for the turbine overspeed protection system. The turbine is equipped with control valves and stop valves which control turbine speed during normal plant operation and protect it from overspeed during abnormal conditions. The turbine overspeed protection system consists of separate mechanical and electrical sensing mechanisms which are capable of initiating fast closure of the control and stop valves. Current TS may require particular operability and surveillance requirements for these steam control and stop valves to minimize the potential for fragment missiles that might be generated as the result of a turbine overspeed event.

General Design Criterion 4 of Appendix A to 10 CFR Part 50 requires that structures, systems, and components important to safety be appropriately protected from the effects of missiles that may result from equipment failures. Application of the design criteria to turbine missiles is described in SRP Section 10.2 and in subsequent safety evaluations related to probabilities of turbine failures, turbine orientations, and surveillance requirements for turbine overspeed protection systems. In NUREG–1366, ''Improvements to Technical Specifications Surveillance Requirements,'' the staff discusses the benefits, resultant costs, and the safety impact of performing turbine overspeed protection surveillances.

Although the design basis accidents and transients include a variety of system failures and conditions which might result from turbine overspeed events and potential missiles striking various plant systems and equipment, the system failures and plant conditions are much more likely to be caused by events other than turbine failures. In view of the low likelihood of turbine missiles, assumptions related to the turbine overspeed protection system are not part of an initial condition of a design basis accident or transient that either assumes the failure of or presents a challenge to the integrity of a fission product barrier. The turbine overspeed protection system is not relied upon in the design basis accident or transient analyses as a primary success path which functions or actuates to mitigate such events.

Probabilistic safety assessments and operating experience have demonstrated that proper maintenance of the turbine overspeed control valves is important to minimize the potential for overspeed events and turbine damage; however that experience has also demonstrated that there is low likelihood of significant risk to public health and safety because of turbine overspeed events. Further, the potential for and consequences of turbine overspeed events are diminished by factors such as the orientation of the turbine relative to plant structures and equipment, licensee inservice testing programs, which must comply with 10 CFR 50.55(a), and surveillance programs for the turbine control and stop valves derived from the manufacturer's recommendations.

Accordingly, the staff has concluded that the turbine overspeed protection system does not satisfy the final policy statement criteria and need not be included in TS. Licensees may propose to relocate the turbine overspeed protection requirements to the UFSAF requirements to the UFSAR and control changes to those provisions in accordance with 10 CFR 50.59.

Dated at Rockville, Maryland, this 20th day of June 1995.

Brian K. Grimes,

Director, Division of Project Support, Office of Nuclear Reactor Regulation.

[FR Doc. 95–15677 Filed 6–26–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket 70–1257]

Finding of No Significant Impact and Notice of Opportunity for a Hearing Renewal of Special Nuclear Material License SNM–1227 Siemens Power Corporation Richland Engineering and Manufacturing Facility Richland, Washington

The U.S. Nuclear Regulatory Commission is considering the renewal of Special Nuclear Material License SNM–1227 for the continued operation of the Siemens Power Corporation's (SPC) Engineering and Manufacturing Facility located in Richland, Washington. The facility manufactures low-enriched uranium fuel for commercial nuclear power reactors.

Summary of the Environmental Assessment

Identification of the Proposed Action

The proposed action is the renewal of SPC's special nuclear material license for 10 years. With this renewal, SPC will continue to operate the Richland Engineering and Manufacturing Facility to fabricate fuel assemblies for commercial nuclear power reactors. SPC is authorized to possess and use up to 25,000 kilograms of uranium-235 in compounds enriched up to 5 weight percent in the U–235.

The facility converts low-enriched uranium hexafluoride (UF_6) to uranium dioxide (UO_2) powder, presses the UO_2 into pellets, loads the pellets into rods, and assembles the rods into final fuel assemblies. Most of the UF_6-to-UO_2 conversion is performed using the ammonium diuranate (ADU) process; however, with this license renewal, SPC will significantly expand its existing dry conversion capacity and shut down most of the ADU process capacity. The environmental assessment considers both the impacts of continued operation of the ADU process and the impacts of the expanded dry conversion capacity, which are expected to be significantly reduced.

The Need for the Proposed Action

SPC performs a necessary service for the commercial nuclear power industry by fabricating fuel assemblies. Currently, the SPC facility is one of four such producers of low-enriched uranium fuel that operates within the United States. Denial of the license renewal application is an alternative available to the NRC but would result in either the expansion of production capacity or transfer of fuel production activities at another facility.

Environmental Impacts of the Proposed Action

The continued operation of the SPC facility will result in the continued release of low levels of hazardous and radioactive constituents. Under accident conditions, the facility could release higher concentrations over a short period of time. The facility uses a number of controls to reduce the release of hazardous and radioactive materials to the environment and performs monitoring of effluents and the environment. These controls and the monitoring program are described below.

The radiological environmental impacts of normal operations and postulated accidents were evaluated for the SPC facility. These impacts are summarized following the description of controls and monitoring.

Effluent Controls and Monitoring

The SPC facility produces gaseous, liquid, and solid effluent streams. Gaseous effluents are controlled by minimizing the amount of airborne radioactive materials within the plant and by the use of stack scrubbers and High Efficiency Particulate Air (HEPA) filters. Liquid effluents are controlled by the use of waste water retention lagoons and treatment systems that reduce the concentration of radioactive materials prior to discharge to the Richland city sewer system. Solid effluents are controlled by segregation of radioactive wastes from trash and hazardous wastes; containment of wastes in drums or boxes on site; treatment by decontamination, compaction, or incineration, as appropriate; and final disposal off site.

SPC monitors these effluents at or just prior to the points of release. Gaseous stack effluents are sampled continuously at isokinetic flow conditions, and the samples are analyzed for radioactivity. Liquid effluents are sampled at the lift station at the point of discharge to the sewer, and the samples are analyzed for uranium and other constituents. Solid wastes are surveyed prior to treatment or off-site disposal.

Action levels have been selected for each of these effluents, in accordance

with applicable NRC, Environmental Protection Agency (EPA), and State regulations, and are incorporated into the renewed license. These action levels specify radionuclide concentrations at which investigations would be initiated and operations would be shut down.

The effluent monitoring program will cover the expanded dry conversion process, including monitoring of new process off-gas and building ventilation systems.

Environmental Monitoring

SPC also performs monitoring to detect accumulation of radioactive materials in the environment. Off-site soils are sampled from two stations quarterly and are analyzed for uranium. Off-site vegetation is sampled from two stations monthly during the growing season and is analyzed for fluoride as an indicator of plant emissions. Ambient air is sampled continuously at two stations and analyzed for fluoride.

The lagoon liner systems are inspected monthly for the presence of liquids. If liquids are present, a sample is taken and analyzed for constituents present in the lagoon. If the liquids are identified as lagoon contents, the lagoon would be emptied and the liner repaired.

Ground water near the lagoons is sampled on a quarterly basis, and the samples analyzed for gross alpha and beta and for chlorides, nitrate nitrogen, ammonia nitrogen, and pH. If the ground water data indicate a lagoon leak, then the lagoon would be emptied and the liner repaired.

Richland city sewage plant sludge is sampled monthly and analyzed for uranium. If a running average of the analyses over a 6-month period exceeds 25 pico-curies per gram, or any single confirmed result equals or exceeds 30 pico-curies per gram discharges to the sewer will be stopped and an investigation will be performed.

The environmental monitoring program will not change as a result of the dry conversion process expansion.

Environmental Impacts From Normal Operations

The release of radioactive material to air and water represents a potential negative impact on the health and safety of the surrounding population. This impact results in a very small increase in the risk of cancer due to low levels of radiation exposure. The risk has been calculated and presented in terms of committed effective dose equivalent and organ doses resulting from a single year of operation. For doses resulting from inhalation or ingestion of uranium, this quantity is the total effective dose equivalent or organ dose that will accrue to an individual over a 50-year period beginning with the year the intake occurs. Doses to a hypothetical maximally exposed individual and collective dose to the population living within an 80 kilometer (50 mile) radius of the SPC facility were calculated and are summarized below.

Based on effluent data for the past 5 years, the SPC facility is expected to release approximately 15 microcuries per year (μCi/yr) of alpha activity and 1.4 μCi/yr of beta activity via gaseous emissions and less than 0.06 curies per year of uranium via sewer discharges. The amount of gaseous alpha emissions is expected to be reduced significantly when the change from ADU conversion to dry conversion is completed.

Doses to the maximally exposed individual via the atmospheric and aqueous release pathways were calculated using the Hanford Environmental Dosimetry Software system (GENII code) and realistic and conservative assumptions.

The total effective dose to a hypothetical resident at the site boundary would be 0.024 millirems per year from atmospheric emissions. The total effective dose to the nearest existing downwind residence, 3.4 kilometers (2.1 miles) southeast of the plant, is calculated at 0.0002 millirem per year from atmospheric emissions. These doses are far below the 25 millirem per year standard in 40 CFR Part 190 for organ doses from fuel cycle operations and the 10 millirem per year standard in 40 CFR Part 61, Subpart I, for doses from atmospheric releases.

The collective dose to the population from routine atmospheric releases is estimated at 0.0035 person-rem per year, less than 0.00005 percent of the 85,000 person-rem per year that the same population is exposed to from natural background sources.

Radioactive material released from the SPC facility to the Richland sewer system, and ultimately to the Columbia River, may result in radiation exposure to humans through a variety of pathways. The primary pathways considered in the analysis were ingestion of drinking water from the Columbia River, consumption of fish from the river and terrestrial foodstuffs irrigated with river water, and exposure during recreational activities such as swimming and boating. Doses to a maximally exposed individual living near the site and to the population within 80 kilometers (50 miles) downstream were calculated. The radionuclide release rates used in the analysis are from measurements of the effluent discharged to the sewer system. Because most of the reported concentrations were at or below the lower limit of detection for the analytical procedure, the aqueous release used in the dose calculation conservatively overestimates the actual release. The total effective dose from aqueous effluents to the Columbia River from the ADU conversion process was calculated at 0.00056 millirem, which is well below applicable regulatory standards in 40 CFR Part 190 and 10 CFR Part 20, Subpart D. Most of the dose is from U–234, and the bone surface receives the highest dose. Liquid releases from the dry conversion process, after the lagoon contents are processed, are expected to average about 30 percent of the current levels.

The dose to the surrounding population from aqueous releases is estimated at 0.074 person-rem per year. This dose is less than 0.004 percent of the 21,000 person-rem per year from natural background radiation sources to the downstream population.

The treatment in the city sewage treatment plant of liquid releases results in some reconcentration of uranium in sewage sludge. Sludge from the sewage plant is shipped daily to the Richland city landfarm where it is mixed with approximately equal amounts of petroleum-contaminated soils and native soils. After 6 months, the mixture is used as intermediate cover at the city landfill. SPC samples the sludge on a monthly basis and analyzes it for uranium content. The concentration of uranium in the sludge has been on the order of 10 picocuries per gram (pCi/g) of sludge (wet weight basis), and SPC has committed to action levels of 25 pCi/g for any 6-month running average or 30 pCi/g for a single sample. If these action levels are exceeded, discharges to the sewer will be halted and an investigation performed.

Environmental Impacts From Accidental Releases

Release of radioactive or hazardous materials under off-normal or accident conditions poses a potential risk to public health and safety and the environment. The potential consequences of these accidents include personal injury, health effects from acute exposures to toxic materials, non-stochastic effects from acute radiation exposure, and risk of latent cancer fatality from exposure to radioactive material.

A set of four accidents spanning the range of potential consequences was selected and evaluated. Three of the four scenarios evaluated the accidental release of radioactive materials. The intakes and predicted doses for the three

radiological accident scenarios were small, with negligible associated health effects, or below the level normally assumed for the onset of clinically observed effects. The fourth accident analyzed, the release of gaseous ammonia, would be expected to produce noticeable, but not life-threatening effects both on site and off site. Given the low likelihood of these accidents, it is concluded that the license renewal will not have a significant impact on the general population.

Socioeconomic Impacts

SPC employs 1,000 people at the Richland plant, which is approximately 1.5 percent of the 68,000 people employed in the Tri-Cities area. Renewal of the license will allow the continued operation of the facility and continued employment of these 1,000 people.

Alternatives to the Proposed Action

If the license is not renewed, the facility would cease operation and begin decontamination and decommissioning. SPC would perform a survey of the site grounds and buildings and develop a detailed decontamination and decommissioning plan. This plan would include the decontamination of buildings, lagoons, and other outdoor areas; generation and off-site disposal of significant quantities of low-level radioactive waste; and excavation of contaminated soils. Decontamination and decommissioning operations would result in the release of small amounts of radioactivity to the atmosphere and to the Columbia River. Specific estimates of the quantities that would be released and associated doses are too speculative to predict, but the expected range could be about the same as for continued operation to one order of magnitude less. Consequently, the doses to the maximally exposed individual and to the general population would be about the same to an order of magnitude less.

The decontamination and decommissioning operations would require fewer employees than plant operations, resulting in an immediate negative socioeconomic impact. This negative socioeconomic impact would increase when decontamination and decommissioning operations were completed and the facility closed.

The cessation of operations would also result in there being one less operating fuel fabrication facility in the U.S., with a potential impact on the commercial nuclear power industry.

Agencies and Persons Consulted

To prepare the Environmental Assessment, the staff used the license renewal application dated August 1992; Revision 4 to the Supplement to Applicant's Environmental Report dated July 1994; additional information dated September 12 and October 21, 1994, and March 31, 1995; and independent data and analyses. In addition, discussions were held with the Washington Department of Health, Radiation Protection Division; the Washington Department of Ecology Nuclear Waste Program and Water Quality Section; the Benton County Clean Air Authority; the United States Environmental Protection Agency, Region X; the City of Richland Department of Water and Waste Utilities; the Washington State Archeologist; the Bureau of Indian Affairs, Yakama Agency; and the Yakama Indian Nation.

Conclusion

The NRC staff concludes that the environmental impacts associated with the proposed license renewal for continued operation of SPC's Richland facility are expected to be insignificant.

Finding of No Significant Impact

The Commission has prepared an Environmental Assessment related to the renewal of Special Nuclear Material License SNM–1227. On the basis of this assessment, NRC has concluded that environmental impacts that would be created by the proposed licensing action would not be significant and do not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a finding of no significant impact is appropriate.

Opportunity for a Hearing

Any person whose interest may be affected by the issuance of this license renewal may file a request for a hearing. Any request for hearing must be filed with the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within 30 days of the publication of this notice in the **Federal Register**; must be served on the NRC staff (Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852), and on the licensee (Siemens Power Corporation, 2101 Horn Rapids Road, Richland, WA 99352–0130); and must comply with the requirements for requesting a hearing set forth in the Commission's regulation 10 CFR Part 2, Subpart L, ''Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings.''

These requirements, which the requestor must address in detail, are:

1. The interest of the requestor in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing;

3. The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for hearing is timely, that is, filed within 30 days of the date of this notice.

In addressing how the requestor's interest may be affected by the proceeding, the request should describe the nature of the requestor's right under the Atomic Energy Act of 1954, as amended, to be made a party to the proceeding; the nature and extent of the requestor's property, financial, or other (i.e., health, safety) interest in the proceeding; and the possible effect of any order that may be entered in the proceeding upon the requestor's interest.

Dated at Rockville, Maryland, this 20th day of June 1995.

For the Nuclear Regulatory Commission.

Robert C. Pierson,

Chief, Licensing Branch, Division of Fuel Cycle Safety and Safeguards, NMSS.

[FR Doc. 95–15675 Filed 6–26–95; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Release of Canadian Tax Information.

(2) *Form(s) submitted:* G–261.

(3) *OMB Number:* N/A.

(4) *Expiration date of current OMB clearance:* N/A.

(5) *Type of request:* New Collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 50.

(8) *Total annual responses:* 50.

(9) *Total annual reporting hours:* 4.

(10) *Collection description:* The proposed information collection will request Canadian taxpayers who are

either RRB disability annuitants or recent unemployment and sickness claimants to consent to the release of their individual tax records from Revenue Canada to the RRB. The information will be used by the RRB to monitor their eligibility for benefits.

Additional Information or Comments: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 95–15606 Filed 6–26–95; 8:45 am]

BILLING CODE 7905–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2785]

Declaration of Disaster Loan Area; Kentucky

As a result of the President's major declaration on June 13, 1995, I find that Bath, Clark, Hardin, Jessamine, Meade, Mercer, Montgomery, and Rowan Counties in the State of Kentucky constitute a disaster area due to damages caused by tornadoes, severe wind and hail storm, torrential rain, and flooding which occurred May 13, 1995 through May 19, 1995. Applications for loans for physical damages may be filed until the close of business on August 12, 1995, and for loans for economic injury until the close of business on March 13, 1996, at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Floor, Niagara Falls, NY 14303, or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location. Anderson, Bourbon, Boyle, Breckinridge, Bullitt, Carter, Elliott, Estill, Fayette, Flemming, Garrard, Grayson, Hart, Jefferson, Larue, Lewis, Madison, Menifee, Morgan, Nelson, Nicholas, Powell, Washington, and Woodford Counties in Kentucky, and Crawford, Harrison, and Perry Counties in Indiana.

The interest rates are:

	Percent
For physical damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses with non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organization) with credit available elsewhere	7.125
For economic injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 278512. For economic injury the numbers are 854200 for Kentucky and 8543 for Indiana.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: June 19, 1995.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 95–15710 Filed 6–26–95; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2786]

Declaration of Disaster Loan Area; Tennessee

Lawrence County and the contiguous counties of Giles, Lewis, Maury, and Wayne in the State of Tennessee constitute a disaster area as a result of damages caused by tornadoes, severe storms, and flooding which occurred on May 18, 1995. Applications for loans for physical damage may be filed until the close of business on August 18, 1995 and for economic injury until the close of business on March 19, 1996 at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308, or other locally announced locations.

The interest rates are:

	Percent
For physical damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For economic injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 278606 and for economic injury the number is 854400.

Any counties contiguous to the above-named county and not listed herein have been previously declared under a separate declaration for the same occurrence.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: June 19, 1995.

Philip Lader,

Administrator.

[FR Doc. 95–15711 Filed 6–26–95; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2784]

Declaration of Disaster Loan Area; Texas

As a result of the President's major disaster declaration on June 13, 1995, I find that Tom Green County in the State of Texas constitutes a disaster area due to damages caused by severe thunderstorms, flooding, hail, and tornadoes which occurred May 28, 1995 through May 31, 1995. Applications for loans for physical damages may be filed until the close of business on August 14, 1995, and for loans for economic injury until the close of business on March 13, 1996, at the address listed below: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155, or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties in the State of Texas may be filed until the specified date at the above location: Coke, Concho, Irion, Menard, Reagan, Runnels, Schleicher, and Sterling.

The interest rates are:

	Percent
For physical damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000

	Percent
Others (including non-profit organizations) with credit available elsewhere	7.125
For economic injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 278411 and for economic injury the number is 854100.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: June 19, 1995.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 95–15712 Filed 6–26–95; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; New Task

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of new task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: Notice is given of a new task assigned to and accepted by the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of ARAC.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Christie, Director, Office of Rulemaking, FAA, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–9677.

SUPPLEMENTARY INFORMATION:

Background

The FAA has established an Aviation Rulemaking Advisory Committee to provide advice and recommendations to the FAA Administrator, through the Associate Administrator for Regulation and Certification, on the full range of the FAA's rulemaking activities with respect to aviation-related issues.

The Task

This notice is to inform the public that the FAA has asked ARAC to provide advice and a recommendation on the following task:

Review National Transportation Safety Board (NTSB) Safety Recommendations 95–25, 95–26, and 95–27, pursuant to Flight Data Recorder (FDR) parameters and amendments to 14 CFR 121.343, 125.225, and 135.152, and recommend disposition of the NTSB recommendations. The ARAC recommendation should be in the form of a Notice of Proposed Rulemaking (NPRM).

The FAA has asked that ARAC provide a final document, including background and economic analysis, to justify and carry out its recommendation.

ARAC Acceptance of Task

ARAC has accepted the task and has chosen to establish a Flight Data Recorder Working Group. The working group will serve as staff to ARAC to assist ARAC in the analysis of the assigned task. Working group recommendations must be reviewed and approved by ARAC. If ARAC accepts the working group's recommendations, it forwards them to the FAA as ARAC recommendations.

Working Group Activity

The Flight Data Recorder Working Group is expected to comply with the procedures adopted by ARAC. As part of the procedures, the working group is expected to:

1. Recommend a work plan for completion of the tasks, including the rationale supporting such a plan, for consideration at the Executive Committee meeting held following publication of this notice.

2. Give a detailed conceptual presentation of the proposed recommendations, prior to proceeding with the work stated in item 3 below.

3. Draft appropriate regulatory documents with supporting economic and other required analyses, and/or any other related guidance material or collateral documents the working group determines to be appropriate; or, if new or revised requirements or compliance methods are not recommended, a draft report stating the rationale for not making such recommendations.

4. Provide a status report at each Executive Committee meeting.

The Secretary of Transportation has determined that the formation and use of ARAC is necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

Meetings of ARAC will be open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act. Meetings of the Flight Data Recorder Working Group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on June 12, 1995.

Chris A. Christie,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 95–15725 Filed 6–26–95; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee; General Aviation Operations Issues—Revised Task

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of revised task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: Notice is given of a change in the task assigned to and accepted by the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of ARAC.

FOR FURTHER INFORMATION CONTACT: Mr. Louis C. Cusimano, Assistant Executive Director for General Aviation Operations Issues, Aviation Rulemaking Advisory Committee, Flight Standards Service (AFS–800), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–8452; fax (202) 267–5094.

SUPPLEMENTARY INFORMATION:

Background

The FAA has established an Aviation Rulemaking Advisory Committee to provide advice and recommendations to the FAA Administrator, through the Associate Administrator for Regulation and Certification, on the full range of the FAA's rulemaking activities with respect to aviation-related issues. This includes obtaining advice and recommendations on the FAA's commitment to harmonize its Federal Aviation Regulations (FAR) and practices with its trading partners in Europe and Canada.

One area ARAC deals with is general aviation operations issues. These issues involve the operation of general aviation aircraft and certification of airmen in 14 CFR parts 61, 91, 103, 125, 133, 137,141, and 143.

The Revised Task

This notice is to inform the public that the FAA has revised a task previously assigned to ARAC. The revised task has been accepted by ARAC. The FAA has asked ARAC to provide advice and recommendation on the following revised task:

Part 103 (Ultralight Vehicles): Review part 103 of the Federal Aviation Regulations and make a recommendation to the Federal Aviation Administration concerning whether

new or revised standards, under part 103 or other regulations that may be affected, are appropriate. In reviewing part 103, the ARAC should consider:

a. United States Ultralight Association's petition to amend part 103 (Docket No. 25591) and all comments submitted regarding the petition; and

b. Adding definitions and operating rules to apply to rotorcraft.

The FAA also has asked that ARAC determine if rulemaking action (e.g., NPRM) should be taken or advisory material should be issued. If so, ARAC has been asked to prepare the necessary documents, including economic analysis, to justify and carry out its recommendation(s).

ARAC Acceptance of Revised Task

ARAC has accepted the revised task and has chosen to assign it to the existing Part 103 (Ultralight Vehicles) Working Group. The working group will serve as staff to ARAC to assist ARAC in the analysis of the assigned task. Working group recommendations must be reviewed and approved by ARAC. If ARAC accepts the working group's recommendations, it forwards them to the FAA as ARAC recommendations.

Working Group Activity

The Part 103 (Ultralight Vehicles) Working Group is expected to comply with the procedures adopted by ARAC. As part of the procedures, the working group is expected to:

1. Recommend a work plan for completion of the tasks, including the rationale supporting such a plan, for consideration by ARAC.

2. Give a detailed conceptual presentation of the proposed recommendations, prior to proceeding with the work stated in item 3 below.

3. For each task, draft appropriate regulatory documents with supporting economic and other required analyses, and/or any other related guidance material or collateral documents the working group determines to be appropriate; or, if new or revised requirements or compliance methods are not recommended, a draft report stating the rationale for not making such recommendations.

4. Provide a status report at each meeting of ARAC held to consider general aviation operations issues.

Participation in the Working Group

The Part 103 (Ultralight Vehicles) Working Group is composed of experts having an interest in the assigned task. A working group member need not be a representative of a member of the full committee.

An individual who has expertise in the subject matter and wishes to become a member of the working group should write to the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire, describing his or her interest in the task, and stating the expertise he or she would bring to the working group. The request will be reviewed by the assistant chair, the assistant executive director, and the working group chair, and the individual will be advised whether or not the request can be accommodated.

The Secretary of Transportation has determined that the formation and use of ARAC are necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

Meetings of ARAC will be open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act. Meetings of the Part 103 (Ultralight Vehicles) Working Group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on June 16, 1995.

Louis C. Cusimano,

Assistant Executive Director for General Aviation Operations Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 95–15726 Filed 6–26–95; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc.; Special Committee 184, Minimum Performance and Installation Standards for Taxi-Hold Position Lights

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee 184 meeting to be held July 27–28, 1995, starting at 9:00 a.m. The meeting will be held at RTCA, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC, 20036.

The agenda will be as follows:

(1) Administrative Announcements (Report results of TMC meeting concerning TOR);
(2) Chairman's Introductory Remarks;
(3) Review and Approval of Meeting Agenda;
(4) Review and Approve Minutes of the Meeting Held June 5–6, 1995;
(5) Review Status of Action Items;
(6) Review of Draft Document Inputs;
(7) Work Group Drafting Session;
(8) Other Business;
(9) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting.

Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone) or (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 16, 1995.

Janice L. Peters,

Designated Official.

[FR Doc. 95–15731 Filed 6–26–95; 8:45 am]

BILLING CODE 4810–13–M

RTCA, Inc.; Special Committee 183; Standards for Airport Security Access Control Systems

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee 183 meeting to be held July 25–26, 1995. The first day Plenary session will begin at 9:30 a.m.; the second day Editorial Working Group session will be from 9:30–11:30 a.m. The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC, 20036.

The agenda will include:

(1) Administrative Announcements;
(2) General Introductions;
(3) Review and Approval of Agenda;
(4) Review and Approval of Minutes of the Meeting held June 12;
(5) Review of SC–183 Meeting Schedule August-September 1995;
(6) Review of Draft Material;
(7) Working Group Issues;
(8) Other Business;
(9) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone) or (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 16, 1995.

Janice L. Peters,

Designated Official.

[FR Doc. 95–15730 Filed 6–26–95; 8:45 am]

BILLING CODE 4810–13–M

RTCA, Inc.; Special Committee 165, Minimum Operational Performance Standards for Aeronautical Mobile Satellite Services

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee 165 meeting to be held July 19–21, 1995, starting at 9:30 a.m. The meeting will be held at the RTCA, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

The agenda will be as follows:

(1) Welcome and Introductions;
(2) Approval of the Summary of the Previous Meeting;
(3) Chairman's Remarks;
(4) Review of SC–165 Working Group Progress: a. Working Group 1 (MOPS), b. Working Group 3 (MASPS), and c. Working Group 5 (SatVoice);
(5) Consideration of Documents for Approval: a. DO–210, AMSS Airborne Equipment MOPS; and b. DO–2XX, Design Guidelines and Recommended Standards for the Implementation and Use of AMS(R)S Voice Services in a Data Link Environment;
(6) Other Business;
(7) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suit 1020, Washington, DC 20036; (202) 833–9339 (phone) or (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 16, 1995.

Janice L. Peters,

Designated Official.

[FR Doc. 95–15729 Filed 6–26–95; 8:45 am]

BILLING CODE 4810–13–M

Civil Tiltrotor Development Advisory Committee

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act Public Law (72–362); 5 U.S.C. (App. I), notice is hereby given of the cancellation of a meeting of the Federal Aviation Administration (FAA) sponsored Civil Tiltrotor Development Advisory Committee (CTRDAC) previously announced for June 29 in Washington DC. The meeting will be rescheduled on a later date. A **Federal Register** announcement will be published once a date has been chosen.

For further information, contact Ms. Karen Braxton (202) 267–9451.

Dated: June 14, 1995.

Richard A. Weiss,

Designated Federal Official, Civil Tiltrotor Development Advisory Committee.

[FR Doc. 95–15728 Filed 6–26–95; 8:45 am]

BILLING CODE 4810–13–M

Aviation Rulemaking Advisory Committee Meeting on Transport Airplane and Engine Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration's Aviation Rulemaking Advisory Committee to discuss transport airplane and engine issues.

DATES: The meeting will be held on July 11 and 12, 1995 beginning at 8:30 a.m. on July 12. Arrange for oral presentations by June 30, 1995.

ADDRESS: The meeting will be held at Boeing Company, 535 Garden Ave. North, Renton, Washington 98055, in building 10–16, Conference room 12C4.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Office of Rulemaking, FAA, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9682.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is given of a meeting of the Aviation Rulemaking Advisory Committee to be held July 11 and 12, 1995 at Boeing Company, 535 Garden Ave. North, Renton, Washington 98055; in building 10–16, Conference room 12C4.

The agenda for the meeting will include:

- Opening remarks.
- Review of action items.
- Reports of working groups.
- Vote on a draft Advisory Circular on ''Design Considerations for Minimizing Hazards Caused By Uncontained Turbine Engine and Auxillary Power Unit Rotor Failure.''
- Vote on a draft Advisory Circular on ''Compliance with Rotor Burst Rule.''
- Vote on a draft Advisory Circular on ''Flight Attendant Direct View.''

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by June 30, 1995, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Assistant Executive Director for Transport Airplane and Engine Issues or by bringing the copies to him at the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on June 19, 1995.

Chris A. Christie,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 95–15727 Filed 6–26–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In May 1995, there were five applications approved. Additionally, three approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of 49 U.S.C. 40117 (Pub. L. 103–272) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph (d) of § 158.29.

PFC Applications Approved

Public Agency: Bradford Regional Airport Authority, Lewis Run, Pennsylvania.

Application Number: 95–01–C–00–BFD.

Application Type: Impose and use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $572,259.

Charge Effective Date: August 1, 1995.

Estimated Charge Expiration Date: June 1, 2008.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators exclusively filing FAA Form 1800–31.

Determination: Approved. Based on information submitted in the Bradford Regional Airport Authority's application, the FAA has determined the proposed class accounts for less than 1 percent of Bradford Regional Airport's total annual enplanements.

Brief Description of Project Approved for Collection and Use:

Apron rehabilitation,
Deicing pad,
Aircraft rescue and firefighting (ARFF) vehicle,
Runway 14–32 lighting,
Automobile parking,
Snow removal equipment building expansion,
Snow removal equipment,
Water system upgrade,
Parking lot overlay,
Airport signs,
Terminal building.

Brief Description of Project Approved in Part for Collection and Use: Project (PFC) formulation and administrative expense.

Determination: Approved in part. The approved amount is less than that requested by the public agency. The public agency requested $15,000 per year for 18 years for administrative costs, however, the FAA has determined that $7,000 per year is adequate to reimburse the public agency for the actual annual expenses. The duration of the annual expenses is also limited to the approved duration of collection, just under 13 years, rather than the 18 years requested. The public agency also states, in the letter to the FAA transmitting the application, that the requested amount includes $699 for miscellaneous expenses. This amount is disapproved in total since the public agency did not provide enough information to allow the FAA to make a determination on the eligibility of these costs.

Brief Description of Projects Approved for Collection Only:

Parallel taxiway runway 14–32 (phase I),
Parallel taxiway runway 14–32 (phase II),
Runway 5–23 lighting.

Brief Description of Projects Withdrawn:

Master plan update,
Runway 14–32 rehabilitation.

Determination: These projects were withdrawn by the public agency by letter dated April 21, 1995. Therefore, the FAA will not rule on these projects at this time.

Decision Date: May 3, 1995.

For Further Information Contact: L.W. Walsh, Harrisburg Airports District Office, (717) 975–3423.

Public Agency: City of Worcester, Massachusetts.

Application Number: 95–02–U–00–ORH.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $2,301,382.

Charge Effective Date: October 1, 1992.

Estimated Charge Expiration Date: October 1, 1997.

Class of Air Carriers not Required to Collect PFC'S: None.

Brief Description of Projects Approved for Use of PFC Revenue:

Reconstruct terminal apron and taxiway B,
Install lighting and groove runway 11–29,
Install perimeter fencing.

Decision Date: May 5, 1995.

For Further Information Contact: Priscilla Soldan, New England Region Airports Division, (617) 238–7614.

Public Agency: City of Lewiston and Nez Perce County, Lewiston, Idaho.

Application Number: 95–02–00–LWS.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $835,458.

Charge Effective Date: May 1, 1994.

Estimated Charge Expiration Date: July 1, 2003.

Class of Air Carriers not Required to Collect PFC'S: The City of Lewiston and Nez Perez County have previously been approved to exclude a class of carriers in the February 3, 1994, Record of Decision.

Determination: No change from previously approved application.

Brief Description of Project Approved for Use of PFC Revenue: Terminal building expansion/renovation/remodeling.

Decision Date: May 12, 1995.

For Further Information Contact: Sandra Simmons, Seattle Airports District Office, (206) 227–2656.

Public Agency: Springfield Airport Authority, Springfield, Illinois.

Application Number: 95–04–U–00–SPI.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $4,585,443.

Charge Effective Date: February 1, 1994.

Estimated Charge Expiration Date: February 1, 2006.

Class of Air Carriers not Required to Collect PFC'S: The Springfield Airport Authority has previously been approved to exclude a class of carriers in the November 24, 1993, Record of Decision.

Determination: No change from previously approved application.

Brief Description of Project Approved for Use of PFC Revenue:

Land acquisition—parcels 9–1–MM, 9–4–I, and 9–4–NN,
Rehabilitate entrance road,
Acquisition of proximity suits,
Acquisition of a front end loader.

Brief Description of Project Disapproved for Use of PFC Revenue: Terminal building expansion.

Determination: The public agency requested authority to use PFC revenue on a portion of the terminal building expansion which was not included in the scope of the project presented in the impose application (93–01–I–00–SPI). The project as presented in the use application is considered to be maintenance in accordance with paragraph 501 of FAA Order 5100.38A and, therefore, ineligible under Airport Improvement Program criteria. The original project, approved in the 93–01–I–00–SPI decision, remains PFC eligible.

Decision Date: May 26, 1995.

For Further Information Contact: Louis H. Yates, Chicago Airports District Office, (708) 294–7335.

Public Agency: Lebanon Municipal Airport, Lebanon, New Hampshire.

Application Number: 95–01–C–00–LEB.

Application Type: Impose and use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $449,256.

Charge Effective Date: August 1, 1995.

Estimated Charge Expiration Date: July 1, 1998.

Class of Air Carriers not Required to Collect PFC'S: None.

Brief Description of Projects Approved for Collection and Use:

Reconstruction of runway 7–25,
Runway 7–25 safety area improvements.
Design taxiway Alpha extension/purchase snow removal equipment.
Environmental assess runway 18–36, phases I and II, and design runway 18–36 reconstruction,
ARFF vehicle,
Snow removal equipment—rotary plow.

Brief Description of Projects Approved for Collection:

Construct taxiway Alpha extension,
Runway 18–36 rehabilitation and relocation,
General aviation ramp expansion south ramp,
Taxiway Alpha reconstruction.

Decision Date: May 26, 1995.

For further Information Contact: Priscilla Soldan, New England Reginal Airports Division, (617) 238–7614.

AMENDMENTS TO PFC APPROVALS

Amendment No. city, state	Amendment approved date	Amended approved net PFC revenue	Original approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
92–C–02–SJC, San Jose, CA	05/23/95	$34,231,826	30,083,826	08/01/95	08/01/95
93–C–01–SJC, San Jose, CA	05/23/95	17,245,000	16,245,000	05/01/97	05/01/97
92–01–I–02–HSV, Huntsville, AL	05/25/95	20,831,051	20,831,051	11/01/08	11/01/08

Issued in Washington, DC, on June 20, 1995.

Sheryl Scarborough,

Acting Manager, Passenger Facility Charge Branch.

[FR Doc. 95–15732 Filed 6–26–95; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

Limited Competitive Cooperative Agreements to Medical Organizations to Support Campaign Safe & Sober

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of Limited Competitive Cooperative Agreements to Medical Organizations to Support Campaign Safe & Sober.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) announces the availability of FY 1995 limited competitive cooperative agreements to support the Secretary of Transportation's goals of increasing safety belt use to 75 percent and reducing the proportion of alcohol-related fatalities by 35 percent (to 11,000 annually) by the year 2005. This notice solicits applications from national, nonprofit medical organizations that are interested in developing and implementing projects under this program. Project emphasis will be placed on promoting legislation to upgrade safety belt laws, actively supporting the traffic safety efforts of the law enforcement community, promoting injury prevention, and enhancing capacity-building among the selected medical organizations' membership to work with the media to publicize Campaign Safe & Sober activities.

DATE: Applications must be received at the office designated below on or before August 18, 1995.

ADDRESSES: Applications must be submitted to the National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD–30), ATTN: Rose Watson, 400 Seventh Street, SW., Room 5301, Washington, DC 20590. All applications submitted must include a reference to NHTSA Limited Competitive Cooperative Agreement Program No. DTNH22–95–H–05202. Interested applicants are advised that no separate application package exits beyond the contents of this announcement.

FOR FURTHER INFORMATION CONTACT: General administrative questions may be directed to Rose Watson, Office of Contracts and Procurement, at (202) 366–9557. Programmatic questions relating to this cooperative agreement should be directed to Ms. Fran Hurtado, Highway Safety Specialist, Room 5118 (NTS–11), 400 Seventh Street, SW., Washington, DC 20590, at (202) 366–1108.

SUPPLEMENTARY INFORMATION:

Background

Traffic crashes are consistently the leading cause of death for persons between the ages of 5 and 32, and are a significant cause of death for all ages. About 40,000 people die in traffic crashes each year and 5 million persons are injured. Many of the deaths and injuries that occur on our roads are not the result of unavoidable incidents. Instead, the consequences of these crashes are the result of the failure to take proper precautions such as wearing safety belts and bicycle helmets, and exhibiting unsafe driving behaviors such as speeding and impaired driving. Reducing the number of deaths and injuries due to motor vehicle crashes is a significant problem warranting the attention not only of traffic safety professionals, but of medical, nursing and public health professionals as well.

Wearing safety belts is the most immediate and effective way of cutting the highway death toll—and strong occupant protection laws are the most effective way of increasing safety belt use. Highway deaths could be cut dramatically if all 50 states had primary safety belt use laws in effect. The Agency recognizes that usage rates are higher, and fatality rates are lower in states with primary enforcement. (**Note:** With a primary enforcement law, a citation can be written whenever a law officer observes an unbelted driver or passenger. Nine States and Puerto Rico currently have primary belt laws; all have use rates that exceed 70 percent.)

Because of the combination of population size and current usage rates, the Agency further recognizes that some States are likely to contribute more than others to reaching a national use rate of 75 percent by 1997. NHTSA believes that targeted Agency expertise and resources, as well as new private/public sector partnerships should be utilized to actively encourage and support high-potential States to set and achieve challenging, but reasonable use rates.

The importance of strengthening the partnership between the traffic safety and medical communities in motor vehicle related injury prevention programming has been recognized by both parties. Highway safety objectives have been included in ''Healthy People 2000,'' the national health promotion and disease prevention objectives for the year 2000. NHTSA has included the establishment of cooperative traffic safety-medical-injury control programs in its priority plan. In addition, any future health care reform legislation in the Congress will have a major impact. Whatever action is finally taken, wellness and preventive health care initiatives are likely to be in the forefront of any effort to reduce the medical costs associated with illness and injury. This grant provides new opportunities for the Agency to solicit the involvement of the medical community in promoting motor vehicle injury prevention activity.

In 1993, Secretary of Transportation Federico Peña announced two new national highway safety goals: to reduce the proportion of highway fatalities that are alcohol-related to 43 percent, and to increase the national safety belt use rate to at least 75 percent by 1997. In 1994, the nation met and exceeded the Secretary's alcohol goals, and he has subsequently announced an aggressive new alcohol goal of reducing the proportion of alcohol-related fatalities by 35 percent (to 11,000 annually) by the year 2005.

In support of these goals, NHTSA is currently implementing an initiative called ''Campaign Safe & Sober'' that has become the centerpiece of the

Agency's traffic safety program over the next several years. It defines the federal strategy for reaching the Secretary's alcohol and belt use goals. Campaign activities will be supplemented by outreach programs involving public and private sector organizations.

Generally, however, Campaign Safe & Sober has three components:

- Public information and education to increase public awareness of the risks and costs of traffic crashes and to support enforcement efforts through highly visible media
- Improved legislation to provide enforceable traffic laws
- Enhanced enforcement to reduce alcohol-impaired driving and increase compliance with belt use laws through special Traffic Enforcement Programs (STEPS)

To further the overall goals of Campaign Safe & Sober, NHTSA is seeking increased participation of the injury control communities, including medical, nursing and public health organizations. The Agency has a long history of working with health and medical professionals, civic groups, and private sector organizations who can motivate people, through their interpersonal contacts, to exhibit safe driving behaviors. One of the most effective means of educating the public about various highway safety issues has been through these organizations. Many organizations have been committed to occupant protection and impaired driving issues over the years and have, individually, made contributions of time, materials, resources and effort to promote the cause.

In efforts to achieve the Secretary's goals, NHTSA proposes to initiate cooperative efforts with two national, nonprofit medical organizations. Each of the two organizations will develop a motor vehicle injury prevention program specific to the respective organization for implementation in mutually selected states and communities across the country. The program will focus on alcohol and occupant protection issues, but may be expanded to include activities in pedestrian, bicycle and motorcycle safety. Program efforts will be concentrated on working with the organization's members to effectively communicate with their legislators, colleagues, patients, the community and law enforcement officials in an effort to increase safety belt use.

The medical community plays a key role in influencing local and state decision makers and elected officials to promote programs and policies that discourage unhealthy behaviors (smoking, alcohol or other drug abuse, etc.) and encourage healthy behaviors (wearing seat belts, bicycle and motorcycle helmets, use of child safety seats, etc.). However, the potential for medical leadership in the public policy arena often goes unrealized. Capacity-building in the medical community needs to be encouraged to augment existing advocacy, legislative and media skills.

Objectives

Under this cooperative agreement, the concepts of injury control, through the promotion of safe traffic safety behaviors, will be advanced. Specific objectives for this cooperative agreement program are as follows:

1. To promote effective traffic safety legislation, with special emphasis on primary safety belt use law upgrades and on broader child safety seat legislation.
2. To work effectively with the media to support the efforts of police to enforce occupant protection (and alcohol-impaired driving) laws.
3. To motivate members of these two national medical organizations and members of the public they serve to adopt traffic-related behaviors that promote safety and health.

Anticipated activities of this cooperative agreement for each of the two medical organizations are:

1. An assessment of existing motor vehicle/injury control prevention activity currently being conducted by the organization.
2. The development, pilot testing and evaluation of a capacity-building workshop for the organization's membership to enhance the media and advocacy skills necessary to support targeted legislative and enforcement activities; and other Campaign Safe & Sober initiatives.
3. Development of policy statements for the organization in support of traffic safety legislation and enforcement.
4. Development and implementation of a focused, mutually-agreed upon strategy (or strategies) targeting high potential States to support legislative and enforcement efforts. Possible approaches include: identification and development of ''resource members'' to provide technical assistance (on-site, by telephone or by mail) to individual State/local organizations to prepare letter-writing campaigns, to prepare and deliver testimony at legislative hearings, to make personal appearances at key meetings/events and in media interviews, etc.

Anticipated outcomes include:

1. An increase in the number and quality of motor prevention activities conducted by the organizations' members (ie., civic and professional presentations; media appearances; placement of editorials and articles in organizational publications and in the print media).
2. An observable increase in support for local and statewide (alcohol and safety belt) law enforcement efforts in selected sites.
3. An increase in the number of medical professionals who are involved in traffic safety legislative advocacy activities (ie. preparation and delivery of testimony, engaging in dialogue with legislators, taking leadership roles in traffic safety advocacy coalitions.)

Specific Tasks

1. The contractor shall meet with the COTR within one week after the award of the contract to review details of the contractor's proposed work plan and schedules for this project.
2. The contractor shall work with NHTSA to mutually identify high potential States that are likely to contribute to reaching a national safety belt use rate of 75 percent by 1997.
3. The contractor shall adapt or develop materials to be used to educate members in high potential States.
4. The contractor shall develop a ''capacity-building'' strategy for member to work with the media in high potential States to provide support for legislative, enforcement and other ongoing prevention efforts (including media efforts, letter-writing capacity, presenting testimony, etc.)
5. The contractor shall identify and train members in high potential States to deliver support for legislative and enforcement activities.
6. The contractor or affiliates shall pilot test the capacity-building strategies and resulting traffic safety advocacy using members selected by the medical organization.
7. A description of pilot activities will be required by the COTR before the pilot testing commences. Contingent with the submission of the test plan, the contractor shall present the COTR a detailed method of evaluating the effectiveness of the strategies.
8. The contractor shall implement these support activities.
9. It is imperative that the contractor make provisions in his/her organization to continue the implementation of the strategies developed after the termination of this cooperative agreement within each of the target areas for at least two years. Emphasis should be placed on making this an ongoing program that is self-sufficient. NHTSA will be prepared to offer suggestions that may assist the contractor to achieve this goal.

10. Quarterly progress reports will be provided. The contractor shall, upon completion of this project, present to NHTSA a detailed report of the entire project.

Deliverables

A final list of required deliverables will be developed in accordance with the accepted proposal prior to award. For planning purposes, the Agency anticipates that the required deliverables will include the following:

Work Plan and Schedules—1 Week, 3 Weeks and 4 Weeks after award
Progress Reports—Quarterly
Final Report (Draft)—1 Year after award
Plan for Self-sustenance, Final Report—2 Months after project completion

NHTSA Role in Activities

The NHTSA Office of Occupant Protection (OOP), National Organizations Division (NTS–11) will be involved in all activities undertaken as part of this cooperative agreement program and will:

1. Provide a project officer to participate in the planning and management of the cooperative agreement and to coordinate activities between the organization and OOP
2. Make available information and technical assistance from government sources, including a copy of the previously conducted NHTSA study. Additional assistance shall be within resources available
3. Provide liaison with government and private agencies as appropriate.

Evaluation Criteria and Review Process

Proposals must demonstrate that the applicant meet all eligibility requirements listed above. Proposals will be evaluated based upon bid price and upon the following weighted six factors:

1. Potential Project Impact—25 points. What the organization proposes to accomplish and the potential of the proposed project to significantly contribute to achieving the Secretary's national alcohol and belts goals through Campaign Safe & Sober
2. Proposed Approach or Strategy—25 points. The extent to which the project addresses foreseeable barriers to gaining significant involvement of the medical professionals in motor vehicle injury prevention advocacy programs. These barriers include awareness, motivation, instruction, and personal and financial limitations.
3. Experience and Capability of Organization—20 points. The overall experience, capability and commitment of the organization to facilitate involvement of its membership in the promotion of motor vehicle injury control.
4. Soundness of the Proposed Work Plan—15 points. The soundness and feasibility of the proposed approach or work plan, including the evaluation to assess program effectiveness and outcomes.
5. Proposed Administrative Plan—10 points. How the organization will provide the administrative capability and staff expertise necessary to complete the proposed project.
6. Proposed Coordination Plan—5 points. The proposed coordination with and use of other available resources, including collaboration with state highway safety offices and other existing or planned state and community motor vehicle injury control programs.

Upon receipt of applications by the agency, they will be screened to assure that all eligibility requirements have been met. Applications will be reviewed by NHTSA staff using the criteria outlined above. The results of this review will be recommendations to the agency management for Competitive Cooperative Agreement award.

Support, Terms and Conditions

Contingent on the availability of funds, satisfactory performance, and continued demonstrated need, this cooperative agreement may be awarded for a project period of up to twelve months. The application for the funding period (12 months) should address what is proposed and can be satisfactorily accomplished during that period.

The anticipated funding level for this cooperative agreement in FY 95 is $150,000, or $75,000 for each of two (2) organizations. Federal funds should be viewed as seed money to assist organizations in the development of traffic safety initiatives. Monies allocated in this cooperative agreement are not intended to cover all of the costs that will be incurred in completing this project. Applicants should demonstrate a commitment of financial and in-kind resources to the support of this project.

The organizations participating in this cooperative agreement program may use awarded funds to support salaries of individuals assigned to the project, the development or purchase of direct program materials, direct program-related activities, or for travel related to the cooperative agreement.

The award recipient will be required to submit quarterly progress reports on a schedule to be determined after award. In addition, the recipient will be required to submit a detailed final summary report describing the project and its outcomes no later than two (2) months after termination of this agreement.

Eligibility Requirements

In order to be eligible to participate in this cooperative agreement, an organization must meet the following requirements:

1. Be a private, national, non-profit medical organization;
2. Have an established membership structure with state/local chapters or affiliates in a broad geographic region of the country;
3. Have in place a schedule of annual regional/state conference or conventions and a variety of communication mechanisms that are appropriate for educating and motivating members and other constituents to become involved in legislative advocacy and implementation support of occupant protection laws;
4. Demonstrate an understanding of occupant protection issues: and
5. Demonstrate top level support within the organization for the project and, where appropriate, demonstrate similar support from the membership or local affiliates.

Application Procedures

1. All applications must be covered by a signed copy of OMB Standard Form 424 (revised 4/88, including 424A and 424B) ''Application for Federal Assistance'' with the required information filled in and the certified assurances included. This form is available from the NHTSA Office of Contracts and Procurement (NAD–30), 400 Seventh Street, SW., Washington, DC 20590, (202 366–0607). Form 424–A deals with budget information, and Section B identifies Budget Categories, the available space does not permit for a level of detail which is sufficient to provide for a useful evaluation of the proposed costs. A supplemental sheet should be provided which presents a detailed breakdown of the proposed costs.

2. Applications shall include a program narrative statement which addresses the following:

A. Goals and Objectives

(i) Demonstrates the need for the assistance and states the principle and subordinate objectives of the project. Supporting documentation from concerned interests other than the applicant can be used. Any relevant data based on planning studies should be included or footnoted.

(ii) Identifies the results and benefits to be derived.

B. Approach

(i) Outlines a plan of action pertaining to the scope and detail on how the proposed work will be accomplished. Include the reasons for taking this approach as opposed to other approaches.

(ii) Describes any unusual features, such as design or technological innovations and extraordinary social/community involvement.

(iii) Provides quantitative projections of the accomplishments to be achieved, if possible, or lists the activities in chronological order to show the schedule of accomplishments and their target dates.

(iv) Identifies the kinds of data to be collected and maintained, and discusses the criteria to be used to evaluate the results. Explains the methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved.

(v) Lists each organization, corporation, consultant, or other individual who will work on the project along with a short description of the nature of their effort or contribution and relevant experience.

3. Applications must be typed on one side of the page only. The original and two copies of each application must be submitted. An applicant may submit an additional four copies to facilitate the review process, but there is no requirement or obligation to do so.

Terms and Conditions of the Award

Prior to the award, each recipient must comply with the certification requirements of 49 CFR part 29—Department of Transportation. During the effective period of the cooperative agreement awarded as a result of this notice, the agreements shall be submitted to general administrative requirements of OMB Circular A–110 (or the ''common rule'', if effected prior to the award), the cost principles of OMB Circular A–21 or A–22, as applicable to the recipient, and the provisions of 49 CFR part 29, Governmentwide Debarment and Suspension (nonprocurement).

Issued On: June 21, 1995.

James H. Hedlund,

Acting Associate Administrator, Traffic Safety Programs.

[FR Doc. 95–15667 Filed 6–26–95; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

June 20, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Departmental Offices/Office of Data Management

OMB Number: 1505–0017.

Form Number: International Capital Form BC, International Capital Form BC(SA).

Type of Review: Extension.

Title: Reporting Bank's Own Claims and Selected Claims of Broker or Dealer, On Foreigners, Denominated in Dollars.

Description: This report is required by law (22 U.S.C. 95a, 286f and 3103) for timely and accurate information on U.S. international capital movements including data on the dollar claims of banks, other depositorsy institutions, brokers and dealers *vis-a-vis* foreigners.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 825.

Estimated Burden Hours Per Response: 7 hours.

Frequency of Response: Monthly.

Estimated Total Reporting Burden: 69,300 hours.

OMB Number: 1505–0019.

Form Number: International Capital Form BL–1, International Capital Form BL–1(SA).

Type of Review: Extension.

Title: Reporting Bank's Own Liabilities, and Selected Liabilities of Broker or Dealer, To Foreigners, Denominated in Dollars.

Description: This report is required by law (22 U.S.C. 95a, 22 U.S.C. 286f and 3103) for timely and accurate information on U.S. international capital movements, including data on the dollar liabilities of banks, other depository institutions, brokers and dealers *vis-a-vis* foreigners.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 900.

Estimated Burden Hours Per Response: 7 hours.

Frequency of Response: Monthly.

Estimated Total Reporting Burden: 75,600 hours.

Clearance Officer: Lois K. Holland, (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–15735 Filed 6–26–95; 8:45 am]

BILLING CODE 4810–25–P

Public Information Collection Requirements Submitted to OMB for Review

June 20, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Financial Management Service (FMS)

OMB Number: 1510–0007.

Form Number: Standard Form 1199A.

Type of Review: Extension.

Title: Direct Deposit Sign-Up Form.

Description: The Direct Deposit Sign-Up Form is used by recipients to authorize the deposit of Federal payments into their accounts at financial institutions. This information is used to route the Direct Deposit payment to the correct account at the correct financial institution. It identifies persons who have processed the form.

Respondents: Individuals or households, Business or other for-profit, Federal Government.

Estimated Number of Respondents: 3,850,000.

Estimated Burden Hours Per Response: 10 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 654,500 hours.

OMB Number: 1510–0027.

Form Number: POD 1681.

Type of Review: Extension.

Title: Application for Payment of a Deceased Depositor's Postal Savings.

Description: This form is required in cases of deceased Postal Savings depositors with accounts of $50 or less. The form is used by relatives of the deceased depositors showing the relationship to the depositor and the date of depositors death. The information helps to determine who is entitled to payment.

Respondents: Individuals or households.

Estimated Number of Respondents: 150.

Estimated Burden Hours Per Response: 15 minutes.

Frequency of Response: Other.

Estimated Total Reporting Burden: 38 hours.

OMB Number: 1510–0035.

Form Number: None.

Type of Review: Extension.

Title: Assignment Form.

Description: This form is used when awardholders wish to assign or transfer all or a portion of their award to another person. In doing so, awardholder forfeits all future rights to the portion assigned.

Respondents: Individuals or households.

Estimated Number of Respondents: 150.

Estimated Burden Hours Per Response: 30 minutes.

Frequency of Response: Other (as needed).

Estimated Total Reporting Burden: 75 hours.

Clearance Officer: Jacqueline R. Perry (301) 344–8577, Financial Management Service, 3361–L 75th Avenue, Landover, MD 20785.

OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–15736 Filed 6–26–95; 8:45 am]

BILLING CODE 4810–35–P

Public Information Collection Requirements Submitted to OMB for Review

June 19, 1995.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Special Request: In order to conduct the survey described below in early July, the Department of the Treasury is requesting Office of Management and Budget (OMB) review and approval of this information collection by June 30, 1995. To obtain a copy of this survey, please write to the IRS Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545–1432.

Project Number: PC:V 95–011–G.

Type of Review: Revision.

Title: Ensuring Compliance Business Customer Satisfaction with IRS Examination Contact Survey.

Description: This survey will gather information about some fundamental experiences that business taxpayers have had, such as: how long they expected the process to take, how long it actually took, how many contacts were made and their frequency. Some basic opinions will also be obtained, regarding the taxpayer's satisfaction with the various aspects of the process, as well as the taxpayer's awareness of various aspects of the process, and their suggestions on improving the process.

Respondents: Business or other for-profit.

Estimated Number of Respondents:
Questionnaire—1,600
Screener Questionnaire—5,000
Pretest—150

Estimated Burden Hours Per Respondent:
Questionnaire—10 minutes
Screener Questionnaire—3 minutes
Pretest—10 minutes

Frequency of Response: Other.

Estimated Total Reporting Burden: 541 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–15737 Filed 6–26–95; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

June 19, 1995.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0409.

Form Number: IRS Forms 211 and 211(SP).

Type of Review: Revision.

Title: Application for Reward for Original Information (Form 211); Solicitud de Recompensa por Información Original (Spanish Version) (Form 211(SP).

Description: Forms 211 and 211(SP) are the official application forms used by persons requesting rewards for submitting information concerning alleged violations of the tax laws by other persons. Such rewards are authorized by Internal Revenue Code (IRC) 7623. The data is used to determine and pay rewards to those persons who voluntarily submit information.

Respondents: Individuals or households.

Estimated Number of Respondents: 11,200.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 2,800 hours.

OMB Number: 1545–0800.

Regulation ID Number: Reg. 601.601.

Type of Review: Extension.

Title: Rules and Regulations.

Description: Persons wishing to speak at a public hearing on a proposed rule must submit written comments and an outline within prescribed time limits, for use in preparing agendas and allocating time. Persons interested in the issuance, amendment, or repeal of a rule may submit a petition for this. IRS considers the petitions in its deliberations.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 600.

Estimated Burden Hours Per Respondent: 1 hour, 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 900 hours.

OMB Number: 1545–0904.
Regulation ID Number: INTL–45–86 Final (T.D. 8125).
Type of Review: Extension.
Title: Foreign Management and Foreign Economic Processes Requirements of Foreign Sales Corporation.
Description: The regulations provide rules for complying with foreign management and foreign economic process requirements to enable Foreign Sales Corporations to produce foreign trading gross receipts and qualify for reduced tax rates. Rules are included for maintaining records substantiate compliance. Affected public is limited to large corporations that export goods or services.
Respondents: Business or other for-profit.
Estimated Number of Recordkeepers: 11,001.
Estimated Burden Hours Per Recordkeeper: 2 hours.
Frequency of Response: Other.
Estimated Total Recordkeeping Burden: 22,001 hours.
OMB Number: 1545–0982.
Regulation ID Number: LR–77–86 Temporary (T.D. 8124).
Type of Review: Extension.
Title: Certain Elections Under the Tax Reform Act of 1986.
Description: These regulations establish various elections with respect to which immediate interim guidance on the time and manner of making the election is necessary. These regulations enable taxpayers to take advantage of the benefits of various Code provisions.
Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, State, Local or Tribal Government.
Estimated Number of Respondents: 114,710.
Estimated Burden Hours Per Respondent: 15 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 28,678 hours.
OMB Number: 1545–1148.
Regulation ID Number: EE–113–90 Temporary and Final Regulations (T.D. 8324).
Type of Review: Extension.
Title: Employee Business Expenses-Reporting and Withholding on Employee Business Expense Reimbursements and Allowances.
Description: These temporary and final regulations provide rules concerning the taxation of and reporting withholding on employee business expense reimbursements and other expense allowance arrangements.
Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.
Estimated Number of Respondents: 1,419,456.
Estimated Burden Hours Per Respondent: 30 minutes.
Frequency of Response: Other.
Estimated Total Reporting Burden: 709,728 hours.
OMB Number: 1545–1317.
Regulation ID Number: INTL–79–91 Final.
Type of Review: Extension.
Title: Information Returns Required of United States Persons with Respect to Certain Foreign Corporations.
Description: These regulations clarify certain requirements of section 1.6035–1, 1.6038–2 and 1.6046–1 of the Income Tax Regulations relating to Form 5471 and would affect controlled foreign corporations and their United States shareholders.
Respondents: Business or other for-profit, Individuals or households.
Estimated Number of Respondents: 1.
Estimated Burden Hours Per Respondent: 1 hour.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 1 hour.
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 95–15738 Filed 6–26–95; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

June 20, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0172.
Form Number: IRS Form 4562.
Type of Review: Revision.
Title: Depreciation and Amortization (Including Information on Listed Property).
Description: Taxpayers use Form 4562 to: (1) Claim a deduction and/or amortization; (2) make a section 179 election to expense depreciable assets; and (3) answer questions regarding the use of automobiles and other listed property to substantiate the business use under section 274(d).
Respondents: Business or other for-profit, Individuals or households, Farms.
Estimated Number of Respondents/Recordkeepers: 6,500,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—33 hr., 58 min.
Learning about the law or the form—4 hr., 40 min.
Preparing and sending the form to the IRS—5 hr., 26 min.
Frequency of Response: Annually.
Estimated Total Reporting/Recordkeeping Burden: 287,057,500 hours.
OMB Number: 1545–1142.
Regulation ID Number: INTL–0939–86 NPRM.
Type of Review: Extension.
Title: Insurance Income of a Controlled Foreign Corporation for Taxable Years Beginning After December 31, 1986.
Description: The information is required to determine the location of moveable property; allocate income and deductions to the proper category of insurance income, determine those amounts for computing taxable income that are derived from an insurance company annual statement, and permit a Controlled Foreign Corporation (CFC) to elect to treat related person insurance income as income effectively connected with the conduct of a U.S. trade or business. The respondents will be businesses or other for-profit institutions.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 1.
Estimated Burden Hours Per Respondent: 1 hour.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 1 hour.
OMB Number: 1545–1266.
Form Number: IRS Form 8829.
Type of Review: Extension.
Title: Expenses for Business Use of Your Home.
Description: Internal Revenue Code (IRC) section 280A limits the deduction for business use of a home to the gross

income from the business use minus certain business deductions. Amounts not allowed due to the limitations can be carried over to the following year. Form 8829 is used to verify that the deduction is properly figured.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 4,000,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—52 min.
Learning about the law or the form—7 min.
Preparing the form—1 hr., 16 min.
Copying, assembling, and sending the form to the IRS—20 min.

Frequency of Response: Annually.

Estimated Total Reporting Recordkeeping Burden: 10,360,000 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–15739 Filed 6–26–95; 8:45 am]

BILLING CODE 4830–01–P

Sunshine Act Meetings

Federal Register

Vol. 60, No. 123

Tuesday, June 27, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the ''Government in the Sunshine Act'' (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, June 28, 1995.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

Baby Walkers

The staff will brief the Commission on the status of the baby walker project.

For a recorded message containing the latest agenda information, call (301) 504-0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504-0800.

Dated: June 22, 1995.

Sadye E. Dunn,

Secretary.

[FR Doc. 95-15899 Filed 6–23–95; 3:28 pm]

BILLING CODE 6355–01–M

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 2:00 p.m., Thursday, June 29, 1995.

LOCATION: Room 410, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

1. Civil Penalty OS# 5401

The staff will brief the Commission on issues related to Civil Penalty OS# 5401.

2. Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: June 22, 1995.

Sadye E. Dunn,

Secretary.

[FR Doc. 95–15900 Filed 6–23–95; 3:28 pm]

BILLING CODE 6355–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Friday, June 30, 1995.

PLACE: William McChesney Martin, Jr. Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

Note: Until further notice, open meetings will be held in the *Martin Building*, not the Eccles Building.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. (a) Proposed revisions to the Board's risk-based capital guidelines to incorporate interest rate risk (IRR) (proposed earlier for public comment; Docket No. R–0802), and (b) publication for comment of a proposed policy statement describing how IRR will be measured and evaluated for supervisory purposes.
2. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: June 23, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–15820 Filed 6–23–95; 10:14 am]

BILLING CODE 6210–01–P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11:00 a.m., Friday, June 30, 1995, following a recess at the conclusion of the open meeting.

PLACE: William McChesney Martin, Jr. Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Restatement of the Federal Reserve Board's pension plan.
2. Consideration of pension plan transfers.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: June 23, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–15821 Filed 6–23–95; 10:14 am]

BILLING CODE 6210–01–P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 12:00 noon, Monday, July 3, 1995.

PLACE: William McChesney Martin, Jr. Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: June 23, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–15901 Filed 6–23–95; 3:28 pm]

BILLING CODE 6210–01–P

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of June 26, July 3, 10, and 17, 1995.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of June 26

Thursday, June 29

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Final Rule on ''Clarification of Decommissioning Funding Assurance Requirements'' (Tentative) (postponed from June 22)
(Contact: Andrew Bates, 301–415–1963)

Week of July 3—Tentative

There are no meetings scheduled for the Week of July 3.

Week of July 10—Tentative

Wednesday, July 12

10:00 a.m.
Briefing on Status of Watts Bar and Browns Ferry 3 (Public Meeting)
(Contact: Fred Hebdon, 301–415–1485)

Week of July 17—Tentative

There are no meetings scheduled for the Week of July 17.

ADDITIONAL INFORMATION: By a vote of 4–0 on June 22, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of Curators of the University of Missouri—Petitions for Reconsideration of CLI–95–01'' (Public Meeting) be held on June 22, and on less than one week's notice to the public.

Note: Beginning July 2, 1995, the Nuclear Regulatory Commission will be operating under a delegation of authority to chairman Shirley A. Jackson, because with three vacancies on the Commission, it will be temporarily without a quorum. As a legal matter, therefore, the Sunshine Act does not apply; but in the interests of openness and public accountability, the Commission will continue to conduct business as though the Sunshine Act were applicable.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301) 415–1963).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc.gov or gkt@nrc.gov.

Dated: June 23, 1995.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 95–15886 Filed 6–23–95; 3:28 pm]

BILLING CODE 7590–01–M

Corrections

Federal Register

Vol. 60, No. 123

Tuesday, June 27, 1995

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 96

Block Grant Programs

Correction

In rule document 95–9915 beginning on page 21322 in the issue of Monday, May 1, 1995, make the following corrections:

1. On page 21323, first column, under **Subpart E--Enforcement**, the eighth line, ''used'' should read ''use''.

On the same page, third column, second paragraph, the sixth line, ''the'' should read ''and''.

2. On page 21324, first column, in the heading for *Section 96.83*, the second line, ''*Sued*'' should read ''*Used*''.

3. On the same page, third column, the heading should read ''*Comment and Response*''.

4. On page 21326, 1st column, 3rd paragraph, the 17th line, ''commented'' should read ''committed''.

5. On page 21328, first column, the heading should read ''*Public Inspection and Comment*''.

6. On the same page, second column, first paragraph, the sixth line, ''what'' should read ''that''.

7. On pages 21329 and 21330, third column and first column respectively, remove beginning and ending quotation marks from the paragraphs at the bottom of the page.

8. On page 21334, 1st column, 4th paragraph, the 27th line, ''bribe'' should read ''tribe''.

9. On page 21336, second column, the heading should read ''*Changes and Recommendation*''.

10. On page 21338, first column, third paragraph 3, beginning at the fifth line remove beginning and ending quotation marks.

11. On the same page, 2d column, 3rd paragraph, the 19th line, ''do'' should read ''does''.

12. On page 21345, second column, sixth paragraph, the third line, ''or'' should read ''of''.

13. On page 21346, third column, second paragraph, the eighth line, ''programs'' should read ''program''.

14. On page 21347, 3rd column, 1st paragraph, the 20th line, ''funds'' should read ''fund''.

15. On page 21351, 1st column, 1st paragraph, the 18th line, ''on'' should read ''one''.

16. On page 21355, 2d column, the 15th line, ''leveraged'' should read ''leveraging''.

17. On the same page, same column, 2d paragraph, the 29th line, ''recipient'' should read ''recipients''.

18. On page 21357, 2d column, 1st paragraph, the 18th line, ''requirement'' should read ''requirements''.

§ 96.83 [Corrected]

19. On page 21358, third column, § 96.83(c)(5), in the second line, ''(c)(2)(ii)'' should read ''(c)(2)(iii)''.

20. On page 21359, second column, § 96.83(f), in the fifth line, ''45-day'' should read ''45 days''.

§ 96.87 [Corrected]

21. On page 21359, third column, § 96.87 (a)(1), in the third line, ''(42 U.S.C.8626(a)'' should read ''(42 U.S.C. 8626a)''.

22. On page 21360, first column, § 96.87(b)(4)(iii), in the third line, ''or'' should read ''of''.

23. On page 21360, first column, § 96.87(b)(6), in the first line, ''mean'' should read ''means''.

24. On page 21360, 2d column, § 96.87(c)(1), in the 14th and 21st lines respectively, ''of'' should read ''or'' and ''8625'' should read ''8626''.

25. On page 21360, third column, § 96.87(d)(2)(iii), in the seventh line, ''8624(c)(1)(A)'' should read ''8624(c)(1)(A))''.

26. On page 21361, second column, § 96.87(d)(2)(iii)(H), in the eighth line, ''program/'' should read ''program''.

27. On page 21361, third column, § 96.87(e)(1)(vi), in the ninth line, ''are'' should read ''were''.

28. On page 21361, third column, § 96.87(e)(1)(vii), in the fourth line,''smoke fire'' should read ''smoke/fire''.

29. On page 21361, third column, § 96.87(e)(1)(vii), in the seventh line, ''cost'' should read ''costs''.

30. On page 21361, same column, § 96.87(e)(1)(vii)(2), in the first line, ''to'' should read ''and''.

31. On page 21361, same column, § 96.87(e)(1)(vii)(2), in the fifth line, ''costs'' should read ''costs,''.

32. On page 21361, same column, § 96.87(e)(1)(vii)(2), in the 14th line, insert a colon after ''reduction''.

33. On page 21362, first column, § 96.87(e)(1)(vi)(3)(i), in the third line, ''liquefied'' was misspelled.

34. On page 21362, third column, § 96.87(f)(2), the sixth line should read, ''be increased, or if other charges(s) to the recipient were or will be''.

35. On page 21362, 3rd column, § 96.87(f)(3), the 11th line, ''within'', should read ''with''.

36. On page 21363, third column, § 96.87(h)(1), in the seventh line, ''proceedings'' should read ''preceding''.

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Federal Register

Tuesday
June 27, 1995

Part II

Department of Health and Human Services

Health Care Financing Administration

42 CFR Part 417, et al.
Medicare and Medicaid Programs; Advance Directives; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 417, 430, 431, 434, 483, 484, and 489

[BPD–718–F]

RIN 0938–AF50

Medicare and Medicaid Programs; Advance Directives

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule responds to public comments on the March 6, 1992 interim final rule with comment period that amended the Medicare and Medicaid regulations governing provider agreements and contracts to establish requirements for States, hospitals, nursing facilities, skilled nursing facilities, providers of home health care or personal care services, hospice programs and managed care plans concerning advance directives. An advance directive is a written instruction, such as a living will or durable power of attorney for health care, recognized under State law, relating to the provision of health care when an individual's condition makes him or her unable to express his or her wishes. The intent of the advance directives provisions is to enhance an adult individual's control over medical treatment decisions. This rule confirms the interim final rule with several minor changes based on our review and consideration of public comments.

DATES: *Effective date:* This final rule is effective on July 27, 1995.

FOR FURTHER INFORMATION CONTACT: Julie Stankivic, (410) 966–5725.

SUPPLEMENTARY INFORMATION:

I. Background

Advance directives are written instructions recognized under State law relating to the provision of health care when adult individuals are unable to communicate their wishes regarding medical treatment.

Note: For purposes of this final rule, the terms ''individual,'' ''patient,'' or ''resident'' refer only to adults as defined by State law.

The advance directive may be a written document authorizing another person, such as a relative or close friend, to make decisions on an individual's behalf (a durable power of attorney for health care), a written statement (a living will), or some other form of instruction recognized under State law specifically addressing the provisions of health care. The various legal devices that exist serve to enhance the ability of individuals to have their desires carried out in the event that they become unable to make their own medical treatment decisions.

Most States have enacted legislation defining an individual's right to make decisions regarding medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives. However, prior to the enactment on November 5, 1990, of the Omnibus Budget Reconciliation Act of 1990 (OBRA '90), Public Law 101–508, there were no requirements relating to advance directives under Federal Medicare or Medicaid laws.

II. Legislative Amendments

A. Medicare Provisions

Section 1866 of the Social Security Act (the Act) requires that providers of services under Medicare enter into an agreement (that is, provider agreements) with the Secretary and comply with the requirements specified in that section. Section 4206(a) of OBRA '90 amended section 1866(a)(1) of the Act relating to Medicare provider agreements by adding a new subparagraph (Q), which specifies that to participate in the Medicare program, hospitals, skilled nursing facilities, home health agencies, and hospice programs must file an agreement with the Secretary to comply with the statutory requirements in new subsection 1866(f) of the Act concerning advance directives. Section 1866(f)(3) of the Act defines an advance directive as a written instruction, such as a living will or durable power of attorney for health care, recognized under State law, relating to the provision of health care when an individual is incapacitated. The State law may either be established by statute or as recognized by the courts of the State.

Section 1866(f)(1) of the Act specifies that a provider of services or prepaid or eligible organization (that is, a health maintenance organization (HMO), competitive medical plan (CMP) as defined in section 1876(b) of the Act, or a health care prepayment plan (HCPP) as defined in section 1833(a)(1)(A) of the Act) must maintain written policies and procedures on advance directives with respect to all adult individuals receiving medical care through the provider or organization. The provider or organization must provide written information to each individual concerning an individual's rights under State law to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate, at the individual's option, advance directives. The provider or organization must also furnish each individual with the written policies of the provider or organization with respect to the implementation of advance directives.

Section 1866(f)(2) of the Act requires that this written information must be provided at the time an individual is admitted as an inpatient to a hospital, at the time of admission to a skilled nursing facility, before an individual comes under the care of a home health agency, at the time of initial receipt of hospice care, or at the time of enrollment of the individual with an eligible prepaid health care organization or HCPP.

Section 1866(f)(1) of the Act also contains provisions that require the provider or organization to document in the individual's medical record whether or not the individual has executed an advance directive, not to discriminate against individuals based on whether or not they have executed an advance directive, to ensure compliance with State law, and to provide for education of staff and community on issues concerning advance directives.

Section 4206(b)(1) of OBRA '90 amended section 1876(c) of the Act by adding a new paragraph (8), which provides that the contract between the Secretary and an eligible organization must provide that the organization meets the advance directives requirements specified in section 1866(f) of the Act.

Section 4206(b)(2) of OBRA '90 also amended section 1833 of the Act by adding a new subsection (r), which specifies that the Secretary may not provide for payment under the Medicare program to an organization unless the organization provides assurances satisfactory to the Secretary that the organization meets the requirements relating to the maintenance of written policies and procedures regarding advance directives in section 1866(f) of the Act.

Section 4206(c) of OBRA '90 provides that sections 4206(a) and (b) do not prohibit the application of a State law that allows for an objection on the basis of conscience for any health care provider or any agent of such provider which, as a matter of conscience, cannot implement an advance directive.

Section 4206(d) made conforming amendments to sections 1819(c)(1) and 1891(a) of the Act, requiring that skilled nursing facilities and home health agencies, respectively, comply with the advance directives requirements in section 1866(f) of the Act. Enforcement

procedures are explained in section II.D of this preamble.

B. Medicaid Provisions

Section 1902 of the Act sets forth State plan requirements for medical assistance that must be submitted to the Secretary for approval. Section 4751 of OBRA '90 amended section 1902 of the Act relating to requirements for State plans by adding provisions concerning advance directives similar to the Medicare provisions in section 4206 of OBRA '90. Specifically, section 4751 of OBRA '90 amended section 1902 of the Act by adding new paragraph (57) to subsection (a) and a new subsection (w). Section 1902(a)(57) of the Act mandates, as a State Medicaid plan requirement, compliance with section 1902(w), which requires all hospitals, nursing facilities, providers of home health care and personal care services, hospices, or health maintenance organizations (as defined in section 1903(m)(1)(A) of the Act) that are receiving funds under a State plan to maintain written policies and procedures to inform, educate, and distribute written information on advance directives to all adult individuals receiving medical care by or through the provider or organization, in the manner described in the law.

Section 4751(a) also amended section 1902 of the Act by adding a new paragraph (58) to subsection (a) to require that States, acting through a State agency, association, or other private non-profit entity, develop a written description of the State law concerning advance directives for distribution to Medicaid providers and coordinated care plans.

Section 4751(b) made conforming amendments to sections 1903(m)(1)(A) and 1919(c)(2) of the Act. These requirements are to be enforced under applicable State plan provisions.

C. Public Education Requirements

Section 4751(d) of OBRA '90 requires the Secretary to conduct a public education campaign on advance directives. HCFA, primarily through our Office of Beneficiary Services, has worked in concert with State and local agencies and consumer groups to carry out this requirement. Examples of public awareness activities include:

- *Information Kit and Press Package.* An information kit was forwarded to major beneficiary organizations and the national news media. We also have issued a press package that includes a bibliography of related publications, as well as a list of organizations that have addressed the statutory requirements concerning advance directives.
- *Medicare Hotline:* 1–800–638–6833. Information concerning advance directives is available through the Medicare hotline. Staff members provide basic information from the information kit, answer questions, and forward booklets concerning advance directives upon request.
- *Articles.* A kit containing standard articles concerning advance directives was sent to all suburban daily and weekly papers. This material generated 244 articles in 25 States with a readership of an estimated 4 million persons. We also sent materials to national and local broadcast organizations, including articles and scripts and/or slides for radio and television public service announcements. The radio material is known to have been used on 258 radio stations that cumulatively reach 4.8 million homes servicing 15 million listeners. The TV material is known to have appeared on 32 stations in 23 States, cumulatively reaching 37.3 million homes.
- *Other Publications.* The following is a brief list of other publications concerning advance directives:

* *Medicare Handbook.* The Medicare Handbook now includes information regarding advance directives. We routinely send this publication, available in both English and Spanish, to each new Medicare enrollee (about 200,000 individuals per month) and more than 1 million other copies have been distributed to current beneficiaries through HCFA publication distribution channels.

* *Medicare and Advance Directives Leaflet.* Approximately 500,000 copies of this leaflet have been distributed to hospitals, beneficiary groups, agencies on aging and similar offices, as well as to some supermarkets with a high concentration of elderly clients.

* *Cartoon Booklet.* HCFA has distributed approximately 10,000 copies of an easy-to-read cartoon booklet on advance directives that is designed for audiences with low literacy levels.

In addition to these activities, we are continuing to plan and carry out further initiatives related to our public service responsibilities that are designed to further educate the public concerning advance directives.

We note that the Office of the Inspector General (OIG) conducted an early implementation study in December, 1992, to determine compliance with the advance directive provision and facility and patient responses (OEI–06–91–01130 and OEI–06–91–01131). This study found that at that time, two-thirds of the patients in the facilities studied had some understanding of advance directives. We believe that this finding indicates that HCFA, in concert with other members of the health care industry, has made significant strides towards educating the public on advance directives.

D. Enforcement Procedures

For hospitals and hospices, compliance with the advance directives requirements is considered part of the provider agreement with HCFA. The provider agreement obligates a provider to comply with the applicable requirements of title XVIII of the Act and includes some specific provisions, such as the advance directives requirements. The Secretary may refuse to enter into a provider agreement or may refuse to renew or may terminate an agreement after the Secretary: (1) Determines that the provider fails to comply substantially with the provisions of the agreement or with the provisions of title XVIII and the implementing regulations; (2) determines that the provider fails substantially to meet the applicable provisions of section 1861 of the Act (definition of services, institutions, etc.); or (3) has excluded the provider from participation under sections 1128 or 1128A of the Act (exclusion and civil monetary penalty provisions).

On-site surveys of providers are performed by State agency or Federal surveyors to determine compliance with the advance directive requirements or the conditions of participation. However, providers are assumed to be in compliance with the general requirements of the provider agreement as set forth in title XVIII. HCFA does not routinely seek information to confirm that the provider is complying with specific requirements of the provider agreement. If information concerning a provider's compliance with the agreement of the provisions of title XVIII is needed, it may be obtained in several ways, including the performance of an on-site survey.

Each hospital and hospice provider has been informed of its obligation to comply with the advance directive provisions and that these provisions are required as a part of its provider agreement with HCFA. Compliance with these provisions is necessary for continued participation in the Medicare and Medicaid programs. These providers were required to inform HCFA, in writing, of the date they achieve compliance.

Our regional offices recently completed random surveys to determine the percentage of providers who have complied with the advance directive

requirements. Based on results from 8 regions, reported compliance rates range between 97 and 100 percent. (We anticipate similar findings for the other two regions).

For hospices, and hospitals not accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or the American Osteopathic Association (AOA), compliance is verified as part of the routine survey process.

Periodic Federal recertification surveys are not conducted in hospitals that are accredited by JCAHO and/or AOA because such hospitals are ''deemed'' to meet Medicare's certification requirements. However, since the advance directive requirements for hospitals and hospices are part of the provider agreement requirement, we will investigate complaints and conduct surveys at these hospitals as needed. We will verify compliance with the advance directive provisions at accredited hospitals in response to complaints and at the time of these surveys.

For skilled nursing facilities (SNFs), nursing facilities (NFs) and home health agencies (HHAs), enforcement procedures employ the Federal on-site survey process. State agency or Federal surveyors are responsible for evaluating compliance with the Medicare and Medicaid requirements for SNFs and NFs or conditions of participation for HHAs. Therefore, State agency or Federal surveyors are able to evaluate on-site compliance with the advance directive requirements through the use of the survey protocol for SNFs, NFs and HHAs. Also, JCAHO and Community Health Accreditation Program, Inc. (CHAP) standards address for long-term care facilities and HHAs advance directive issues, which should enhance compliance with these rules by educating these entities concerning advance directives and suggesting methods of complying with statutory and regulatory advance directive requirements.

A facility that does not comply with the provisions of its provider agreement may be terminated by HCFA. HCFA must give the provider notice of termination at least 15 days before the effective date of termination of the provider agreement. This notice must state the reasons for, and effective date of termination and explain the extent to which services may continue after that date. A provider may appeal the termination of its provider agreement in accordance with 42 CFR part 498.

Under Medicaid, a provider must enter into an agreement with the State Medicaid agency. State agency surveyors or Federal surveyors (during a validation or ''look-behind'' survey) perform a function similar to that under Medicare. However, the State Medicaid agency is responsible for assuring compliance with the Medicaid provider agreement and the advance directive requirements contained therein.

For eligible or prepaid health care organizations, initial approval of a Medicare contract under sections 1833 and 1876 of the Act requires compliance with the advance directives requirements. The organization's continued adherence to these requirements is reviewed by HCFA during routine monitoring activities which include site visits, and examination of marketing materials and provider contracts. Failure to comply with the advance directives requirements may result in termination of the organization's contract with HCFA.

E. Effective Dates

The amendments made by sections 4206(a) and (d) of OBRA '90 pertaining to Medicare providers are effective with respect to services furnished on or after December 1, 1991.

The amendments made by section 4206(b) of OBRA '90 pertaining to prepaid and eligible organizations participating in the Medicare program (that is, contracts with HMOs and CMPs under section 1876(b), and Medicare payments to HCPPs under section 1833(a)(1)(A) of the Act) are effective December 1, 1991.

The amendments made by section 4751 of OBRA '90 pertaining to the Medicaid program are effective with respect to services furnished on or after December 1, 1991.

III. Provisions of the March 6, 1992 Interim Final Rule

On March 6, 1992, we published an interim final rule with comment period that set forth in regulations the new advance directive provisions (57 FR 8194). The March 6, 1992 interim final rule implemented the provisions of sections 4206 and 4751 of OBRA '90 by requiring that all hospitals, skilled nursing facilities, nursing facilities, providers of home health care or personal care services, hospices, and prepaid health plans provide written information to each adult individual receiving medical care through the provider or organization concerning his or her rights under State law to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate, at the individual's option, advance directives.

General Requirements

Under these regulations, the term ''advance directive'' is defined as a written instruction, such as a living will or durable power of attorney for health care, recognized under State law, relating to the provision of health care when the individual is incapacitated. These regulations do not require an individual to execute an advance directive prior to the provision of treatment and services. Furthermore, we note that these requirements do not apply to providers of outpatient hospital services.

The provider must inform the individual, in writing, of State laws regarding advance directives; inform the individual, in writing, of the policies of the provider regarding the implementation of advance directives, including if permitted under State law, a clear and precise explanation of any objection a provider (or any agent of such provider) may have, on the basis of conscience, to honoring an individual's directive; document in the individual's medical record whether or not the individual has executed an advance directive; educate staff on issues concerning advance directives; and provide for community education on issues concerning advance directives. In accordance with OBRA'90, the interim final rule required providers to communicate information to individuals about their right to accept or refuse medical treatment and the right to formulate an advance directive by furnishing written descriptions of State law and provider policies and practices regarding the implementation of such rights. However, with the exception of these general notification requirements, the law has a narrow and explicit focus solely on the handling of written directives for medical care made by persons who later become incapacitated. Therefore, the interim final rule did not address other related issues such as informed consent to medical care, determination of mental capacity, provision of medical care to minors, wills leaving property, or organ donation.

Content and Format of Written Information

The interim final rule also did not prescribe the content and format of the written information to be provided to each adult individual. However, in connection with our technical assistance responsibilities to States in meeting the Medicaid requirements of the law, HCFA's Administrator sent a letter to each State Medicaid Director to which was attached a sample public

information document for use in informing adult individuals about advance directives.

Note: The materials contained in the HCFA Administrator's information package, including the sample public information document, were published as Appendix I to the preamble of the interim final rule. These materials are not being republished in this final rule.

This sample public information document is suggestive of what we believe an acceptable document should include. As stated in the interim final rule, it would be consistent with the statute to develop a considerably shorter discussion than that contained in the sample document. It would also be possible to use a short summary notice, several paragraphs rather than pages long, that notified the patient that a longer and more specific document was available upon request. However, the summary notice would have to cover the legally required elements (for example, describing the purpose and the concept of an advance directive, an individual's rights under State law to accept or refuse medical or surgical treatment, the right to formulate an advance directive, and the provider's policies concerning the implementation of those rights).

As also discussed in the March 6, 1992 document, we are aware that State law on advance directives is not always clear or comprehensive. Nonetheless, Congress has mandated that, as of December 1, 1991, providers and organizations participating in Medicare or Medicaid must distribute the required materials that inform an individual of his or her right under State law to accept or refuse medical treatment and the right to formulate advance directives. This requirement relates to current State law. Therefore, changes in State law, by statute or court case, must be incorporated into subsequent provider information packages. We specifically sought public comments on what would be a reasonable period of time within which such changes should be made.

Timing for Dissemination of Written Information

Written information on advance directives must be provided to an individual upon each admission to a medical facility and each time an individual comes under the care of an HHA, personal care provider, or hospice. For example, if a person is admitted first as an inpatient to a hospital and then to a nursing home, both the hospital and the nursing home would be required to provide information on advance directives to the individual. We suggested that if an individual is being transferred from a hospital to a nursing home, the hospital discharge planner may provide the information (including the nursing home's policies regarding the implementation of advance directives) on behalf of the nursing home in the course of coordinating the smooth transfer of the patient. However, we reemphasize that the nursing home is still responsible for inquiring about the existence of an advance directive and documenting in the individual's medical record whether or not the individual has executed an advance directive.

If a patient is incapacitated at the time of admission and is unable to receive information (due to the incapacitating condition or a mental disorder) or articulate whether or not he or she has executed an advance directive, the facility should give advance directive information to the patient's family or surrogate to the extent that it issues other materials about policies and procedures to the family of the incapacitated patient or to a surrogate or other concerned persons in accordance with State law. This does not, however, relieve the facility of its obligation to provide this information to the patient once he or she is no longer incapacitated or unable to receive such information.

Description of State Laws Concerning Advance Directives

As a part of the Medicaid requirements contained in section 4751 of OBRA '90, we also required in the interim final rule that each State, acting through a State agency, association, or other private nonprofit entity, develop a written description of the State law (that is, statutory or otherwise recognized in the courts) concerning advance directives for distribution by providers. Given the requirements in the Federal law, we noted that States have a wide range of options in describing State law and in prescribing informational materials for use by providers. For example, the State materials describing an individual's rights to accept or refuse medical or surgical treatment and the right to formulate an advance directive may include lengthy or extended requirements for executing an advance directive, or they may be a short, simple statement expressing the individual's rights concerning advance directives.

The interim final rule also included some discussion of possible approaches that States and providers may take in providing the required information and that we believed would produce results consistent with the statutory requirements. In accordance with the requirements of section 4751 of OBRA '90, States may require that Medicaid providers use the State-developed description of State law only. Alternatively, States may allow providers to incorporate the general information contained in the State-developed description of State law into the providers' own package of materials that include the providers' written policies regarding the implementation of an individual's rights. Although the statute does not specifically require that Medicare providers use the State-developed description of State law, we encouraged States and providers, and organizations to work together to ensure that a complete and accurate description of State law is distributed consistently to all adult patients or residents.

Sources of Information and Technical Assistance

As mentioned earlier, HCFA provided technical assistance to the States, including the technical assistance information package released by HCFA's Administrator in September 1991. At that time, HCFA also released a State Medicaid Manual issuance (HCFA-Pub. 45–2, Transmittal #73) concerning advance directive requirements to inform the States of their responsibilities in this area. Copies can be obtained by the general public by contacting the National Technical Information Service (NTIS), ORDER #PB88–952399. You may call to order at (703) 487–4630 or send a request to NTIS Subscription Department, 5285 Port Royal Road, Springfield, VA 22161.

Finally, we note that a number of other private entities have prepared pertinent documents that States may find helpful. HCFA's Administrator issued a press package that included a bibliography of these publications, as well as a list of organizations that have addressed the statutory requirement that providers disseminate information to individuals regarding their rights under State law to accept or refuse medical treatment and the right to formulate advance directives. These materials were printed as Appendix II to the preamble of the interim final rule and are not being reprinted in this final rule.

Methods of Complying With Advance Directive Requirements

The law requires that the existence of an advance directive be documented in an individual's medical record. We recognize, particularly in the case of prepaid health care organizations, that such documentation will occur when the medical record is created. Although the statute does not specifically require

providers or organizations to have direct dialogue with each adult individual to ascertain whether he or she has executed an advance directive, we believe that this type of interaction is an acceptable method for obtaining this information.

Although it is acceptable that the patient be asked and respond to a specific question, we recognized that these procedures are not the only appropriate methods for obtaining the information needed to document medical records. It is also acceptable for providers to include in preadmission materials a form, to be completed by the patient, that sets forth whether or not the patient has executed an advance directive. Such form, when completed and returned by the patient at the time of admission, would supply the provider the information needed to document the medical record, or the form itself could be attached to such record. There are, however, issues with respect to whether these methods may impose too great a burden on the patient or may not result in eliciting the desired information from a sufficient number of patients. Therefore, we requested comments on these and other methods of obtaining the information needed to document the medical record.

As discussed in the interim final rule, there are also several options available to accomplish the requirement that a provider or organization provide for community education. The educational materials must inform the public of their rights under State law to make decisions concerning the receipt of medical care by or through the provider or organization; the right to formulate advance directives; and the provider's or organization's implementation policies concerning an individual's advance directive.

Under the interim final regulations, the provider or organization cannot condition the provision of care or discriminate against an individual based on whether or not the individual has executed an advance directive. For example, all patients are generally entitled to the medically necessary care ordered by a physician which a provider, under normal procedures, would be required to furnish and cannot delay or withhold because the individual has not executed an advance directive or the provider is waiting for an advance directive to be executed. However, once it is documented that an advance directive has been executed, then the directive takes precedence over the facility's normal procedures, to the extent required by State law.

As specified in the statute, we also required prepaid or eligible health care organizations to provide information on advance directives to enrollees at the time of enrollment. Organizations must give enrollees the advance directive material prior to the effective date of coverage. However, we encouraged organizations to give enrollees the material as early as possible after the application for enrollment is received.

We recognize that an organization may have contracts with a variety of providers (in order to assure widespread access to care), and that some of these providers may have policies with respect to advance directives that are more limited than others (for example, a hospital exercising an objection on the basis of conscience that is consistent with State law). In such cases, the organization could adopt a policy that embraces the variety of practices of its providers, and disseminate the information regarding those various practices to its enrollees as prescribed by the interim final rule. This information would be provided along with the written description of State law. On the other hand, the organization could simply note, in the material regarding State law and provider practices, that its providers have, in accordance with State law, varying practices regarding the implementation of an individual's advance directive. In this case, such varying practices must be made available to each adult individual selecting or receiving care from such providers.

For a description of the specific changes to the regulations text that were necessary to implement the above statutory provisions, see the March 6, 1992 interim final rule, 57 FR 8198.

IV. Discussion of Public Comments

In response to the March 6, 1992 interim final rule with comment period, we received 85 timely items of correspondence. We have summarized the comments and are presenting them below along with our responses.

Section IV.A contains our response to general comments. In responding to comments, the term ''provider'' generally encompasses hospitals, skilled nursing facilities (SNFs), nursing facilities (NFs), hospices, and home health agencies (HHAs). When the comments and responses deal with a specific provider type, the appropriate term is used.

Section IV.B responds to comments that deal specifically with what the statute refers to as ''prepaid or eligible organizations'' (that is, HMOs, CMPs, and HCPPs). In responding to comments, we generally use the term ''managed care plans'' to refer to these types of organizations. (We note that on July 15, 1993, we published a final rule (57 FR 38072) that replaced the term ''prepaid or eligible organization'' with the term ''HMOs and CMPs'' throughout 42 CFR part 417. Thus, all references in the regulation text now use the term HMOs and CMPs.)

In addition, we received some comments concerning Appendices I and II to the interim final rule. These documents were included in the interim final rule as a source of technical assistance only and are not being republished in this final rule; however, a discussion of these comments is contained in section IV.C.

A. General

Scope of Regulations

Comment: Two commenters asserted that these regulations are inconsistent with the requirement in sections 1866(f)(1)(A)(i) and 1902(w)(1)(A)(i) of the Act that providers give patients written information concerning an individual's rights under State law to make decisions concerning medical care including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives. Specifically, the commenters objected to the following statements in the preamble of the interim final rule:

> ''Nothing in either the statute or this interim final rule addresses patient or provider rights or decisions regarding medical or non-medical care, except when the patient has left written instructions which become effective only after the individual becomes incapacitated''. For example, this regulation neither creates nor affects requirements with respect to informed consent to medical care * * * These and many other significant subjects are not addressed under OBRA '90. The law has a narrow and explicit focus concerning the handling of written directives for medical care made by persons who later become incapacitated. (57 FR 8196)

The commenters asserted that to be more consistent with the statute these regulations should require providers to disseminate information concerning: (1) The right to accept or refuse treatment both ''contemporaneously and in advance, the latter via advance directives;'' (2) informed consent; and (3) the fact that the effective dates of advance directives may vary in accordance with applicable State law.

Response: Sections 1866(f)(3) and 1902(w)(4) of the Act make clear that the term ''advance directive'' relates to the provision of health care when an individual is incapacitated. We agree that the statute also requires providers to furnish individuals with written information about their rights under State law to direct their medical

treatment before incapacitation (that is, the right to accept or refuse medical or surgical treatment). However, we do not believe that the statute authorizes us to broaden the scope of these regulations as suggested by the commenter nor do we believe that the law intends that hospitals provide patients with an exhaustive briefing about medical decision making under State law. States and providers are free to provide additional information that might further educate patients about additional rights regarding medical decision-making that exist under State law.

Comment: Two commenters requested that HCFA limit the scope of the law so that providers and organizations need to provide only Medicare and Medicaid patients with information on advance directives.

Response: Sections 1866(f)(1) and 1902(w)(1) of the Act specify that information on advance directives be provided to all adult individuals. Narrowing the scope of the requirement to Medicare and Medicaid patients would not be consistent with the explicit language of the law and could not be done without a statutory change.

Comment: Two commenters opposed the statutory definition of an advance directive because it includes only written instructions recognized under State law. The commenter believes this definition is too narrow and precludes the recognition of other types of instructions, such as oral instructions given by competent patients, which are already commonly used in many States.

Response: Sections 1866(f)(3) and 1902(w)(4) of the Act clearly specify that the term ''advance directive'' applies only to ''written instructions''; legislative action would be necessary to amend this definition. It is important to note, however, that in describing an individual's right to make decisions concerning medical care, sections 1866(f)(1)(A)(i) and 1902(w)(1)(A)(i) of the Act recognize both the ''right to accept or refuse medical or surgical treatment'' and ''the right to formulate advance directives''. Thus, we believe that the statute does not preclude an individual from making oral instructions or a provider from executing such instructions, consistent with State law.

Comment: Several commenters requested that we define certain terms for purposes of these rules, such as ''admission,'' ''adult,'' ''incapacitation,'' ''incompetence,'' ''mental disorder,'' and others. The commenters offered many examples of applicable State definitions, particularly with regard to the meaning of ''incapacitation'' for decision-making purposes. Another commenter suggested that we should require States to furnish their Medicaid providers with a written description of all applicable State laws that determine the circumstances under which an individual under 18 is entitled to make his or her own decisions concerning advance directives and other medical care issues under the purview of this regulation.

Response: We recognize that many of these terms have already been given varying definitions under State law. In that the statute is silent on defining these terms, we believe that Congress intended to defer to State law. Therefore, we are not defining these terms in the regulations. Section 1902(a)(58) of the Act already requires that the State, acting through a State agency, association, or other private nonprofit entity, develop a written description of the law of the State (whether statutory or as recognized by the courts of the State) concerning advance directives that would be distributed by providers or organizations. Sections 1866(f)(1)(a) and 1902(w)(1) of the Act require that providers furnish written information to each individual concerning an individual's rights under State law to accept or refuse medical or surgical treatment and to formulate an advance directive. If there were a State law in effect that addressed the rights of individuals under the age of 18 to formulate an advance directive and make medical treatment decisions, a description of this law should be furnished to all Medicaid providers. As stated above, terms such as adult individual are defined in accordance with applicable State law.

Comment: Two commenters questioned the effectiveness of oral instructions, especially those given before the enactment of the advance directive provisions. The commenters know of some long-term care residents who are unable to execute an advance directive, but have already given oral instructions to their physicians (for example, no tubes, no cardiopulmonary resuscitation), and this has been clearly documented in the medical record. Also, a commenter noted that some physicians and attorneys believe that if there is no written advance directive, then the patient has lost his or her right to choice and these patients are therefore subject to the physician's decision based on accepted medical standards.

Response: Sections 1866(f)(3) and 1902(w)(4) of the Act define an advance directive as a written instruction recognized by the State and relating to the provision of health care when an individual is incapacitated. The advance directives provisions apply to patients admitted after December 1, 1991. As we have repeatedly noted, however, this statute in no way abridges any rights a patient may have under Federal or State law to specify or refuse medical treatment. The statute simply establishes requirements with respect to the dissemination of specific information about individuals' rights regarding medical treatment, including an individual's right to accept or refuse medical or surgical treatment and the right to formulate an advance directive. Individuals are not required to execute an advance directive. In fact, providers are specifically prohibited from conditioning the provision of care on whether or not an individual has executed an advance directive. Moreover, the provider must disseminate copies of its written policies respecting the implementation of such rights.

These regulations in no way contravene any existing instructions concerning an individual's medical treatment. Therefore, previous instructions remain in effect, unless amended or altered by subsequent instructions submitted in accordance with State law. Generally, such subsequent instructions can be in the form of the patient's oral instructions or the discovery of new instructions contained in or authorized by a new advance directive, subject to applicable State law.

Comment: Several commenters asserted that the statutory requirements concerning advance directives are derived from the more fundamental right of the competent individual to accept or refuse any suggested medical intervention. These commenters believe that to require notification of the derivative right to formulate an advance directive without explanation of the underlying right is likely to result in an incomplete and potentially misleading statement of patients' rights.

The commenters further asserted that our suggestion that the statute applies only to circumstances in which the individual has left written instructions that become effective only after the individual becomes incapacitated construes the definition of advance directive too narrowly. They believe that the statutory language is intentionally general and should not be interpreted as a specific limitation on the date an advance directive becomes effective. In some States, a durable power of attorney for health care may be effective when signed, rather than effective only upon the determination of

incapacity. Although the instrument may be effective immediately, the individual still maintains the power to control health care decisions while competent; so, as a practical matter, the instrument may not be used until the principal loses capacity. Nevertheless, legally the instrument is effective when signed. Since the statute is not intended to change substantive State law or limit the kinds of advance directives recognized by the States, the limiting language in the preamble of the interim final rule should be avoided.

Other commenters argued that the regulations should emphasize that providers and organizations must give equal weight to the right to accept or refuse treatment, the right to sign or not sign a directive, and the right to sign a legal directive other than the form drawn up by the State so long as that directive comports with State law.

Response: We recognize that every individual has an underlying right to accept or refuse any suggested medical intervention. These regulations are not intended to place limitations on this right. We agree with the commenters that there is nothing in the law or these regulations that diminishes an existing right to make or execute a directive (or to request or to refuse medical treatment) under current State or Federal law. We did not intend to give the impression that this was the case in the preamble to the March 6, 1992 interim final rule. In this final rule, we emphasize in several responses to comments that an individual's right to accept or refuse medical treatment is not limited by these advance directive provisions, and we have been very careful to ensure that our regulations do not extend a broader reach to these provisions than the law allows. In fact, sections 1866(f) and 1902(w) of the Act and §§ 417.436(d)(1)(i) and 489.102(a)(1)(i) of the regulations specifically require that the written instructions disseminated to adult individuals must include information about an individual's rights under State law to accept or refuse medical and surgical treatment and the right to formulate advance directives.

As noted above, sections 1866(f) and 1902(w) of the Act define an advance directive as ''Written instructions, such as a living will or durable power of attorney for health care, recognized under State law (whether statutory or as recognized by the courts of the State) and relating to the provision of such care when the individual is incapacitated.''

Thus, we continue to believe that the focus of these regulations is two-fold: to ensure the dissemination of information about an individual's right to accept or refuse medical or surgical treatment and about an individual's right to formulate an advance directive.

Comment: A commenter suggested that we clarify the statement in the preamble to the March 6, 1992 interim final rule that ''care cannot be delayed or withheld because the individual has not executed an advance directive or the provider is waiting for an advance directive'' (57 FR 8198). Another commenter suggested that we make it clear that the restriction against delaying care applies only to treatment decisions made by providers. If the patient requests that care be delayed because he or she is waiting for an advance directive to be executed (or for any other reason), the provider must, by law, respect the patient's wishes.

Response: Under sections 1866(f)(1)(c) and 1902(w)(1)(c) of the Act, providers may not condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive. Thus, in general, a patient is entitled to receive the necessary care ordered by a physician that a provider under normal procedures must furnish. In addition, a provider cannot delay or deny care while waiting for an advance directive to be executed, unless otherwise instructed by the patient in accordance with applicable State law. However, the last sentence of both section 1866(f)(1) and 1902(w) of the Act makes clear that a provider cannot be required to furnish care that conflicts with an advance directive. Therefore, once the provider learns that an advance directive has been executed that stipulates refusal of care, that directive takes precedence over any physician orders or normal provider procedures, unless there is a State law that permits a provider, or any agent of such provider, to conscientiously object to implementing an advance directive.

We agree that the patient always has the option to refuse treatment, and the advance directive regulations do not impede an individual from exercising that option. Thus, as long as a patient is capable of communicating his or her wishes regarding treatment, the contents of an advance directive may not be controlling. By definition, implementation of an advance directive takes place at the time the individual is incapable of communicating his or her preference to accept or refuse medical or surgical treatment.

Written Information Provided to Individuals

Comment: Several commenters suggested that we permit the use of as many health care disciplines as possible to distribute and obtain information on advance directives from patients. Another commenter suggested that only qualified healthcare professionals (for example, nurses, physicians, social workers, etc.) be used. This would preclude admission clerks, nursing assistants, and other support personnel from disseminating and collecting information on advance directives.

Response: Sections 1866(f)(1)(A) and 1902(w)(1)(A) of the Act require the dissemination of written information concerning both State law and provider policies. However, these sections do not identify any particular disciplines or persons to disseminate this information, and we do not believe that any particular training is required to disseminate written materials or obtain information from patients regarding whether or not they have executed an advance directive. Therefore, we do not believe it is appropriate to restrict providers and other eligible organizations in terms of the type of personnel they decide to use to meet these requirements. We recognize that many providers may wish to accompany advance directives materials with an explanation and direct personal contact. However, an accompanying explanation and direct personal contact are not required by the statute, but are left to the provider's discretion and to applicable State law.

Comment: One commenter suggested that we require individuals to discuss their wishes regarding future medical care with their physician. In addition, the commenter believes that these regulations should require that physicians be responsible for documenting this discussion in detail in the patient's medical record. In accordance with State law, this document would serve as an advance directive if no actual written document is drawn up and executed.

Response: Sections 1866(f)(1)(A) and 1902(w)(1)(A) of the Act clearly place the obligation to provide information and document the existence of an advance directive on certain specific health care providers, with which the Medicare and Medicaid programs have agreements. We believe it would be inconsistent with the statute to implement a requirement as broad as that suggested by the commenter.

Comment: One commenter asserted that, when disseminating information about advance directives, a provider's staff should not be required or expected to give detailed explanations of State law, regulation or judicial decisions or to assist the client to develop an advance directive. The commenter

believes that most agencies and facilities do not have the legal expertise necessary to perform these activities. In addition, the commenter suggests that HCFA's interpretive guidelines should address an individual's right to refuse to discuss the subject of advance directives (for example, when an individual's religious or personal beliefs preclude discussion).

Response: Sections 1866(f)(1)(A) and 1902(w)(1)(A) of the Act require providers to provide written information concerning an individual's rights under State law (whether statutory or as recognized by the courts of the State) concerning the right to accept or refuse medical or surgical treatment and to formulate an advance directive. These sections do not require detailed explanations of State law concerning such rights. We believe that the exact content and complexity of laws concerning these rights vary from State to State and thus it may be burdensome for some States to provide detailed explanations of State law. As we stated in the interim final rule, we believe that it would be consistent with the statute to use a summary notice that covered the legally-required elements (that is, describing the purpose and the concept of an advance directive and the individuals' rights under State law to accept or refuse medical or surgical treatment under State law, and describe the provider's policy and procedures). However, we do not wish to discourage providers from voluntarily training staff to assist patients in developing an advance directive, in any way permissible by State law. We do not believe it is necessary to state explicitly in our guidelines that an individual may refuse to discuss advance directives. We expect that providers or other eligible organizations will address this sort of situation merely by documenting in the medical record that the individual was provided written information concerning advance directives and chose not to discuss his or her rights in this area.

Comment: One commenter suggested that a hospital should not be required to distribute exact copies of its policies and procedures to patients upon admission to the hospital. Instead, the commenter suggested that it should be sufficient to supply a statement that the hospital follows the State law and a statement concerning the availability of the hospital's policy and procedures. Other commenters expressed concern that the provision of exact copies of policies and procedures to individuals would mean that they would receive voluminous materials that they would probably find somewhat meaningless, confusing and much less useful than they would find prepared summaries written more for their understanding. Several commenters believe that furnishing patients with written policies with respect to implementation of advance directives can be time-consuming because existing medical policy documents would have to be converted into more easily understood summaries. Yet, these more easily understood summaries may inordinately simplify a complex decision-making process.

Response: We agree that exact copies of medical staff policy documents need not be provided to patients. Sections 1866(f)(1)(A) and 1902(w)(1)(A) of the Act require that the individual receive certain basic information concerning an individual's rights under State law, including the right to accept or refuse medical and surgical treatment, the right to formulate advance directives, and the policy of the hospital or other provider with respect to implementing such rights under the law. While we recognize that preparing this material may be a challenge, the law requires that it be done, and providers must take the necessary steps to ensure the written information is understandable to the patients. We provided a detailed bibliography of published materials on this matter in the March 6, 1992 interim final rule (57 FR 8200), and a number of national groups have continued to work to provide materials that will assist hospitals and other providers in this task. Although we do not intend to prescribe the content and format of the written information, it must clearly convey to individuals the required basic information about the individual's rights under State law to accept or refuse medical or surgical treatment, the right to formulate advance directives and the provider's written policies respecting the implementation of such rights. Further explanation of an individual's rights pertaining to advance directives should be made available upon request.

Comment: One commenter believes that good patient/physician decision-making practices may be hampered since other disciplines such as nurses actually may be disseminating advance directive material to the patient, as well as answering any questions the patient may have concerning advance directives. To avoid misunderstandings and potential trauma to patients, the commenter suggested that physicians or State health officials distribute this information to a patient before admission to a hospital.

Response: We believe that a clear understanding of an individual's rights in this area should improve the quality of patient/physician decision-making, regardless of who disseminates the information. We agree that the optimum time for the individual to receive this sort of information is before entering the hospital and presume that the community education programs will accomplish this over time. As noted above, we have no statutory authority to designate specific disciplines to present this information to individuals and, in the absence of State law, we believe that this matter should be left to the discretion of the provider.

Comment: One commenter opposed the statement in the interim final rule that when a patient is being transferred from a hospital to a nursing home, the hospital discharge planner may provide the information (including the nursing home's policies regarding the implementation of advance directives) on behalf of the nursing home in the course of coordinating the smooth transfer of the patient (57 FR 8197). The commenter believes that such coordination promotes the possibility that some patients may not receive the information. In addition, the commenter expressed concern that these arrangements may result in disputes between hospitals and nursing facilities concerning responsibility for errors in disseminating required information.

Response: While we recognize that coordination between hospitals and nursing homes with respect to advance directives should be carefully planned and implemented, we do not believe that these arrangements should be prohibited. However, providers and organizations are by no means relieved of their responsibility for meeting all advance directive requirements when they enter into a coordinated arrangement such as the one discussed above between a hospital and a nursing home. Any deficiencies found on the part of a hospital or nursing home in complying with the advance directive requirements will be subject to the enforcement procedures described above in section II.D. We note that the illustration of a hospital providing a nursing facility's information about rights under State law on behalf of the nursing facility was an example of permissible coordinating efforts and not a requirement. We have revised §§ 489.102(a)(1)(i) and 483.10(b)(8) to state that providers are permitted to contract with other entities to furnish this information but are still legally responsible for ensuring that the advance directive requirements are met.

Comment: One commenter suggested that there is a potential conflict between the implementation of an advance

directive executed by a client of a home health agency (HHA) and the requirements for a physician order under 42 CFR 484.18. Those regulations require that HHAs administer drugs and treatment only under the orders of a physician. A conflict may occur if the patient's physician refuses to provide orders to enable the HHA to implement the patient's advance directive. To resolve this potential conflict, the commenter suggests that documentation of contact with the physician and of the physician's orders or refusal of orders to implement the client's directive be recognized as sufficient to comply with the advance directive requirements.

Response: The potential conflict identified by the commenter can be addressed in the written information regarding the HHA's policies. This information should alert the patient to the HHA's reliance on physician orders to effectuate an advance directive or otherwise respond to a patient's request to accept or refuse treatment. It also would explain how its employees would routinely follow those orders or whether an objection on the basis of conscience (by the physician or the HHA) would prevent it. Therefore, if a patient is informed that the HHA would rely on the physician's orders to effectuate the advance directive, a patient should, prior to beginning to receive care, discuss his or her advance directive with the physician. If the patient is informed that the physician, due to an objection on the basis of conscience, would not implement the advance directive, then the patient may request either treatment from another physician who would honor the advance directive or transfer to another HHA.

A related issue involves HHA compliance with the advance directive requirements. Compliance with the advance directive provisions is a condition of participation. If an HHA fails to honor an advance directive and it has not informed the patient of a reservation of conscience permitted by State law, the HHA would be in violation of a standard under the HHA patient rights condition of participation (see § 484.10(c)(2)(ii)). If it failed to correct the deficiency, the HHA would be subject to termination of the provider agreement under § 489.53.

Comment: One commenter stated that there should be a hospital billing code for counseling the patient regarding rights to have an advance directive.

Response: The advance directive provisions do not include authority to modify the current hospital payment system in order to assist providers in complying with the advance directives requirements. Therefore, we have not included provisions relating to payment (or billing codes) in this regulation. However, hospitals as well as other providers reimbursed under the cost reimbursement system can receive reimbursement for the incurred administrative costs associated with the advance directive requirements. No separate billing code is necessary.

Comment: One commenter suggested that we revise the regulations to require that a hospital disseminate information on organ donation at the same time it disseminates information on advance directives.

Response: Section 1138(a)(1) of the Act requires hospitals to have organ procurement protocols, including procedures for approaching appropriate donors or their families. We have carefully considered requiring that hospitals disseminate information on both subjects at the same time. However, unlike section 1866(f)(2)(A) of the Act, section 1138 of the Act does not require that a hospital disseminate organ donation information upon admission. Consequently, we believe that organ donation information should be disseminated when it is deemed most appropriate by the provider.

Documenting the Medical Record

Comment: Two commenters suggested that any information documented in an individual's medical record concerning the execution of an advance directive be kept confidential to protect each individual's privacy interests.

Response: Information about advance directives that is documented in an individual's medical record would be subject to the same confidentiality protection as other information in the medical record. For example, under the ''Medical record services'' hospital condition of participation, § 482.24(b)(3) specifies that hospitals must ensure the confidentiality of patient medical records and that information from or copies of records may be released only to authorized individuals. Hospitals are also required to ensure that unauthorized individuals cannot gain access to or alter patient records. These requirements apply to information entered into the medical record as a result of the advance directive requirement. Similar confidentiality protections are set forth in the regulations governing other providers.

Comment: We received a number of comments concerning access to the advance directive. One commenter questioned the logistics of how a provider will gain access to an individual's advance directive. The commenter suggested that the regulations should establish a mechanism through which the contents of a person's advance directive document are communicated to the health care provider. Two commenters suggested that we require that providers collect a copy of the individual's advance directive or information as to where the advance directive can be located. One commenter recommended that we require providers to document any known changes to or rescissions of previous advance directives.

Response: These comments suggest that HCFA should specify procedures and requirements that are beyond the scope of this legislation. The statute does not address the issue of how a provider will locate or gain access to an advance directive. Sections 1866(f)(1)(B) and 1902(w)(1)(B) of the Act require only that the provider document in the medical record whether or not an individual has executed an advance directive. The statute does not require the collection of copies of an advance directive or the collection of information about the location of an advance directive, nor does it require a provider to document known changes or rescissions to prior advance directives. However, section 1866(f)(1)(D) of the Act does specify that providers must maintain policies and procedures that ensure compliance with requirements of State law. Thus, providers must comply with State laws that may require the documentation of information concerning the location of and access to advance directives, and copies of advance directives would need to be located and possibly held by the provider when the State law requires this result.

In summary, we believe that the document will be provided by the patient when asked or will be located when its use becomes necessary. Moreover, the statute intended to defer to State law the questions about the creation and preservation of advance directives. Providers should look to State statutory and case law for guidance on access to advance directives. We encourage providers to incorporate State statutory and case law into their written policies.

Comment: One commenter stated that our suggestions in the preamble to the interim final rule (57 FR 8197) on possible methods for ascertaining whether or not an individual has executed an advance directive, for example, the use of direct dialogue and preadmission forms, would, if made mandatory, place an unfair burden upon providers. Another commenter suggested that in order to prevent an administrative burden and potential

liability issue, the final regulations require that providers make reasonable efforts to acquire information as to whether or not an individual has an advance directive and document this information in the medical record. The commenter requests clarification regarding a provider's liability if it could not determine if an individual has executed an advance directive and later learns that one does exist. The commenter requests more information about the provider's responsibility for any treatment decisions that may have been taken that may run counter to the advance directive.

Response: We recognize that there are many possible methods by which providers may determine the existence of an advance directive. The interim final rule did not mandate any method but suggested several alternatives. We agree that a provider should have to make only a reasonable effort to determine if an adult individual has an advance directive. Except when an individual is incapacitated at the time of admission, a reasonable effort can be defined as simply giving out the information and documenting in the medical record whether or not the individual has executed an advance directive. If the patient is incapacitated at the time of admission, then the provider should have follow-up procedures to determine if the patient has an advance directive or when the patient may be given the information directly. (This issue is further discussed below under the heading ''Individuals Incapacitated at Admission.'')

For Federal compliance and enforcement purposes, we would not hold a provider responsible for failing to ensure compliance with an advance directive if the patient never furnished it to the provider or responded negatively when the inquiry was made about having an advance directive. However, in accordance with State law, the provider may be liable for treatment decisions made after learning that an advance directive exists, that may run counter to the advance directive. Also, we note, that if State law holds providers to a higher standard, State law would prevail.

Comment: Two commenters asserted that the requirement in § 489.102(a)(2) that providers ''document in the individual's medical record whether or not the individual has executed the implementation of such rights'' was unclear. The commenters suggested that the phrase ''implementation of such rights'' be replaced with ''an advance directive in accordance with State law.'' The commenters believe that the requirement as written could be broadly interpreted to include documenting all acceptances and refusals of treatment, thus resulting in an increased burden on providers and a waste of direct care nursing time, as well as increasing costs associated with these requirements.

Response: We agree that § 489.102(a)(2) is unclear and are revising it to state that providers must ''Document in the individual's medical record whether or not the individual has executed an advance directive.''

Comment: Three commenters suggested that the final regulations require that providers ask patients if they have executed an advance directive.

Response: The statute does not specifically require that direct dialogue be the method for obtaining the information. Although we believe that this is frequently the most effective way to obtain the information, we are also aware of situations in which other methods may be appropriate. For example, some health maintenance organizations deal with new enrollees primarily by mail, including providing and obtaining information concerning advance directives by mail. Thus, we do not believe that the regulations should prohibit the use of methods other than direct dialogue to discover whether or not an individual has executed an advance directive.

Comment: Several commenters supported our suggestion in the interim final rule that providers could use the preadmission process to obtain the information necessary to document in the medical record the existence of an advance directive. One of these commenters suggested that another method to obtain information regarding the existence of an advance directive is at the time of preadmission testing. Another commenter suggested that more guidance be issued concerning other possible methods of obtaining this information.

One commenter suggested that if a provider chooses to obtain information about whether individuals have advance directives through its preadmission process, HCFA should not specify the type of form to be used. The commenter recommended that we leave this decision to the discretion of the provider.

Response: We agree that information concerning whether or not an individual has executed an advance directive may be obtained at the time of preadmission testing. In addition, we agree that there are many ways to determine whether or not an individual has executed an advance directive. However, we have not required any particular method in order to enhance provider flexibility in this area.

Although we suggested in the interim final rule that providers may use forms to obtain advance directive information, we do not intend to specify any form for the provider's use.

Information Collection Estimate

Comment: We estimated in the interim final rule that the information collection burden associated with the requirement that providers document in the medical record whether an advanced directive exists would be approximately 3 minutes per medical record. Many commenters stated that the 3-minute estimate appears to account only for making notation in the medical record and does not include the time needed to help individuals understand their rights, consult with other disciplines, for example, doctors, nurses, social workers, pastoral care clergy, etc. Others believe our estimate should include time spent in responding to phone calls and written inquiries by affected individuals. Some commenters suggested that it would take at least 15 to 30 minutes to explain the characteristics of advance directives, obtain the required signatures and follow up to assure compliance. Another commenter asserted that it will take an immeasurable amount of time to accomplish this documentation; therefore, it is an unfair burden to enforce this requirement, especially without separate reimbursement.

Response: The 3-minute estimate only takes into account the amount of time required to document in the medical record whether an advance directive exists. The Paperwork Reduction Act is concerned only with the burden of recordkeeping under this requirement as a result of these regulations. This estimate is not based on the time necessary to develop policies and procedures, printing costs and assembling of the material for the information packets for adult individuals. This estimate does not include the time spent explaining an individual's rights under Federal and State laws, nor any consultation with other disciplines to help the individual execute an advance directive that the provider or organization may choose to provide. The statute merely requires the dissemination of information, obtaining information as to whether the individual has executed an advance directive and the documentation of this information in the individual's medical record. Therefore, we believe that the estimated burden of 3 minutes per medical record is accurate.

Comment: In light of the requirement placed upon nursing facilities by the Omnibus Budget Reconciliation Act of 1987 (OBRA '87) that rights must be explained to residents in a manner that they can understand, a commenter asserted that the 3-minute information estimate is inaccurate for nursing facilities. The commenter believes that the burden imposed on these facilities is at least 30 minutes to explain the advance directives requirement in a manner the resident can understand.

Response: The commenter is correct that, in accordance with resident rights provisions of OBRA '87, § 483.10(b) requires facilities to inform residents both orally and in writing in a language that the resident understands of his or her rights, including the advance directive provision. However, as explained above, the information collection estimate does not include time to explain the advance directives requirements. Therefore, the burden to which the commenter refers is not appropriately part of the advance directives estimate.

Comment: One commenter misinterpreted the estimate of 15 million individuals used in the calculation of the information collection burden as representing the number of individuals who have executed advance directives.

Response: Fifteen million did not represent the number of persons who have executed advance directives, rather it represented the projected number of Medicare beneficiaries and Medicaid recipients who were expected to receive services from providers and organizations subject to these regulations. In other words, in the interim final rule, we projected that in FY 1992 providers and eligible organizations would be required to meet the advance directive requirements, including proper documentation of the medical record, for at least 15 million Medicare and Medicaid beneficiaries/recipients.

Discrimination Based on Advance Directive

Comment: Although opposed to the statutory requirements concerning advance directives because they appear to place the Federal government in the role of advancing euthanasia in the United States, one commenter urged HCFA to promulgate regulations that ensure that providers and organizations are prohibited from exerting any form of coercion, or undue influence to make an individual feel that he or she must execute an advance directive. In addition, the commenter believes we should make it clear that States are not obligated by these regulations to pass laws addressing advance directives.

Response: Sections 1866(f)(1)(C) and 1902(w)(1)(C) of the Act, as well as our implementing regulations, clearly prohibit any type of discrimination against individuals based on whether or not an individual has executed an advance directive. Thus, we agree with the commenter that providers and organizations are not permitted to coerce or pressure any individual into executing an advance directive. As stated in the sample public information document published in the interim final rule (57 FR 8199), the law does not require an individual to execute an advance directive. Similarly, we agree with the commenter that these rules do not require States to enact legislation to address advance directive requirements.

Comment: Two commenters recommended that we make it clear that discriminating against an individual because he or she has an advance directive is strictly prohibited. One commenter believes there is a real danger that an advance directive may deprive patients of the normal care that they would receive if there were no advance directive.

Response: Again, sections 1866(f)(1)(C) and 1902(w)(1)(C) of the Act and the regulations both prohibit any discrimination based on whether or not the individual has an advance directive. In addition, in the event that problems are encountered, individuals have the right to submit a complaint to the State agency or regional office for investigation.

Provider Responsibilities To Ensure Compliance With the Requirements of State Law Concerning Advance Directives

Comment: A commenter suggested that the regulations require that a facility's policies for objections on the basis of conscience be reviewed annually for compliance with State law. In addition, the commenter suggested that the facility's advance directive informational packages should contain a statement that its policies have been reviewed and found in compliance with State law and should cite the State law authority.

Response: Under sections 1866(f)(1) and 1902(w)(1) of the Act, providers have been required since December 1, 1991 to maintain and distribute written policies and procedures concerning an individual's rights under State law to accept or refuse medical or surgical treatment and to formulate advance directives, and the providers' policies for ensuring compliance with such rights. Section 489.102(a)(1)(ii) specifies that providers must provide written information to all adult individuals concerning its written policies respecting the implementation of such rights, including a clear and precise statement of limitation if the provider cannot implement an advance directive on the basis of conscience. As discussed in further detail below, we are revising § 489.102(a)(1)(i) to require that providers must update and disseminate amended information as soon as possible, but no later than 90 days from the effective date of the changes to State law. Therefore, we do not believe it is necessary to require a separate annual review of compliance with State laws concerning objections on the basis of conscience. HCFA has various mechanisms, such as certification surveys, for assessing provider compliance with rules and regulations. We do not believe it is necessary for a provider's documents to contain a statement addressing approval findings of compliance surveys. In general, we will rely upon the State (for example, during its licensure inspections) to determine if its advance directives laws are being enforced properly.

Comment: Two commenters suggested that the regulations address the extent of the provider's responsibility to determine the validity of an advance directive. They believe that the advance directive is valid if it appears to meet the formal requirements of applicable State law, unless the provider knows, or has reason to know, otherwise. Also, the commenters suggested that a provider's written policy should explain the extent to which advance directives that are prepared in other jurisdictions will be honored if they meet the formal requirements of applicable State law. One commenter suggested that we clarify that the most recently executed advance directive should be the one the provider relies upon in making determinations relating to health care delivery.

Response: The statute does not address the issues raised by these commenters. As a practical matter, State laws typically govern the procedures for determining the validity of advance directives and how such documents from other jurisdictions will be honored. In general, we would expect that providers will comply with the advance directives of individuals from other States, unless the directive conflicts with State law or the provider conscientiously objects, in accordance with State law. In addition, although not required by the statute, we believe it is appropriate for providers to confirm with individuals the contents of their advance directive to ensure that the

provider is relying upon the most recently executed advance directive.

Comment: One commenter argued that it is inappropriate to require providers to ensure compliance with State law because the commenter believes that a provider is prohibited from practicing law and interpreting the meaning of statutes and case law. The commenter suggested that the requirement of § 489.102(a)(4) that providers ''ensure compliance with requirements of State law'' be revised to read ''Review the advance directive to ascertain whether or not there are advance directive requirements in the execution of the document that have not been met.''

Response: Sections 1866(f)(1)(D) and 1902(w)(1)(D) of the Act specify that providers are required to ensure compliance with the requirements of State law. Thus, the regulations implementing these provisions are not discretionary. Moreover, we do not agree with the commenter that this requirement involves the unauthorized practice of law by providers. It has been a long-standing policy of the Medicare and Medicaid programs to hold participating providers responsible for compliance with applicable State and Federal laws related to the overall health and safety of patients. For example, § 482.11 establishes compliance with Federal, State and local laws as a condition of Medicare participation for hospitals.

Comment: One commenter suggested amending § 489.102(a)(4) to clarify that interference with a physician's conduct toward his or her patient is prohibited. The commenter believes that this provision may be interpreted as constituting the practice of medicine by the hospital and would, therefore, be illegal under State laws prohibiting the ''corporate practice of medicine.'' Another commenter asserted that since we are not giving guidance to providers on what is meant by the phrase ''ensure compliance with requirements of State law regarding advance directives'', we need to acknowledge that providers cannot control the medical judgement of physicians in individual cases.

Response: We do not agree that existing language at § 489.102(a)(4) is illegal under State laws prohibiting the ''corporate practice of medicine''. While it may be true that a hospital or other provider may not direct the specific actions of an individual physician in a case, a provider may determine who may or may not be a member of its medical staff and may set conditions for membership. We believe that it may be prudent for a provider's advance directives policy to be developed with input from its medical staff and that, during the process of granting admitting privileges to physicians, it would be reasonable to require physicians to comply with provider policies and State law on the matter of advance directives. Therefore, because most hospitals include compliance with advance directives requirements as a condition of membership for physicians, we do not believe it is necessary to issue regulations regarding this issue.

Comment: One commenter requested we amend § 489.102(a) by adding new language to require that a documented advance directive would ''take precedence over the facility's normal procedures, to the extent required by State law''.

Response: We agree that an advance directive should take precedence over a facility's normal procedures to the extent authorized by State law. However, we believe existing regulations at §§ 489.102(c) and 417.436(d)(2)(i), which state that providers and organizations are not required to provide care that conflicts with an advance directive, already establish that advance directives take precedence over a facility's normal procedures.

Comment: Some commenters had questions concerning our discussion in the interim final rule (57 FR 8197) of situations in which State law on advance directives is not clear or where there is no State law addressing advance directives. Two commenters asserted that in the absence of State law on the subject, it is imperative that the regulations be flexible enough to include common law and institutional practices. Two other commenters questioned our suggestion to rely on ''institutional practice'' in lieu of a State statute. The commenters believe that few institutions or organizations have had enough direct experience to dictate the best way to accomplish statutory requirements concerning advance directives. These commenters noted that the American Bar Association has stated that many providers have interpreted State laws concerning advance directives in an overly restrictive manner. The commenters believe that, as a result, many providers have failed to develop a full range of effective patient-oriented decision-making practices. The commenters suggested that providers be encouraged to interpret statutory silence as an invitation to develop ''best practice'' procedures based on emerging notions of good clinical practice and professional standards.

Response: Sections 1866(f)(1)(D) and 1902(w)(1(D) of the Act specify that providers are to ensure compliance with requirements of State law (whether statutory or as recognized by the courts of the State). We agree that common law and institutional practices can be of assistance when the law is unclear or there is no State law regarding advance directives and believe that these regulations are flexible enough to include common law and institutional practices along with statutory law.

Also, we encourage providers to develop ''best practice'' procedures based on emerging notions of good clinical practice and professional standards. We also encourage the American Bar Association and other professional organizations to continue working with providers and State legislatures to ensure that State laws are clearly written, revised and updated where necessary, and to ensure that the Federal advance directives requirements are implemented in accordance with applicable State law.

Community Education

Comment: Two commenters asserted that the interim final rule lacks guidance on what constitutes minimally sufficient educational efforts. The commenters suggested that the final rule should require that the provider's written community education plan include at a minimum: (1) its intended target audiences, (2) the frequency of its educational efforts, and (3) the expected penetration of the target population to be attained by the educational efforts.

Response: We believe that the intent of the community education requirement is to educate as large a number of individuals as would be reasonable for that provider. However, as noted by the commenters, the interim final rule did not specify a minimum level of activity for the community education effort. In an effort to determine if further guidance was needed in this area, our regional offices recently conducted a survey of a small sample of providers to determine the level of community education efforts among providers. For sample purposes, the regional offices accepted copies of any document generated to publicize and conduct community education efforts. The results indicated that providers are using a variety of methods, for example, workshops, seminars, public meetings, health fairs, civic affairs, and the media.

Our review of the many methods and types of community education documentation maintained by providers leads us to believe that providers are reaching targeted audiences, are conducting frequent campaigns, and raising the advance directive issue

before new audiences. Therefore, most of the commenter's suggestions are currently being achieved by providers without explicit guidance.

Based on the survey, we do not feel it is necessary to establish the type of prescriptive requirements suggested by the commenters. Instead, we are revising the regulations at §§ 417.436(d)(1)(B)(vii) and 489.102(a)(6) to require that providers must be able to document their community education efforts. Although we are not limiting provider flexibility in meeting this requirement, one possible method for a provider to document its efforts would be to maintain copies of any materials used as part of its community education programs. We believe that the maintenance of community education documentation will strengthen our ability to enforce the community education requirement without limiting provider flexibility in this area.

While we believe that the requirement that providers maintain documentation will assist us in evaluating the level of community education efforts achieved by providers, we considered whether it would be an added burden to require the maintenance of such documentation. However, in all likelihood, providers will maintain copies of the materials used as part of their community education efforts for their own purposes, and we are not limiting the type of documentation that would be acceptable. Thus, we do not believe that this requirement constitutes an added burden.

Comment: One commenter suggests that physicians be targeted for much of the national educational campaigns conducted by Federal and State governments. The commenter believes that a national educational campaign for physicians would ensure that terms such as medical and surgical treatment are explicitly defined and consistently applied. The commenter believes that this is necessary, particularly in nursing facilities, because physicians are the critical link in implementing an individual's advance directives. The commenter believes that a national educational campaign would ensure that all parties (physicians, residents, surrogate decision-makers) are knowledgeable concerning the advance directives requirements.

Response: National educational campaigns are being addressed separately from these rules. However, in accordance with sections 1866(f)(1)(E) and 1902(w)(1)(E), providers are responsible for the education of physicians who are provider staff members or under contract concerning advance directives. Also, we note that medical schools and professional associations are providing training and education to physicians on issues concerning advance directives and patient's rights. With respect to what constitutes medical or surgical treatment, State laws typically govern the definition of these terms.

Comment: One commenter suggested that for any written or oral presentation concerning State law, a provider be required to: (1) Obtain approval by the State; (2) use State material or; (3) conduct joint presentations with State-recognized experts in the field.

Response: Individual States have the latitude to stipulate the use of specific documents but may also permit providers, at their discretion, to use other methods of informing patients. Also, we do not believe it would be appropriate to require State approval of presentations or to mandate the use of State-recognized experts in this field. We believe adopting the commenter's suggestions would place an unfair burden on both the State and providers. Therefore, we have left this matter up to the discretion of the individual States.

Comment: One commenter asserted that enforcement of the community education requirements would violate a provider's First Amendment rights to freedom of religion. Therefore, the commenter recommended that providers be allowed to exempt themselves from any community education activities based on conscience.

Response: The statute does not permit providers to exempt themselves from the community education requirement. However, both sections 4206(c) of OBRA '90 and 1902(w)(3) of the Act permit a provider, in accordance with State law, to object to implementing an advance directive on the basis of conscience. Accordingly, we believe it would be appropriate for a provider to register that objection as it conducts its community education requirement. That is, the provider must meet its obligation to conduct community education on advance directives, but may inform the community that the State law offers a choice that, because of a conscientious objection, it would not honor. We believe that this information is valuable for community members to have since it may affect their choice of a provider. Therefore, we are not adopting the suggestion that providers be allowed exemptions from the community education requirements.

Comment: One commenter believes that the community education requirement is duplicative, inefficient, and does not provide any further information to consumers concerning advance directives. Therefore, the commenter suggested this requirement should be eliminated. Another commenter suggested that this requirement is an undue burden on hospitals and believes the responsibility to educate the community should be borne only by Federal and State governments. Another commenter objected to the requirement that facilities engage in community education presentations or outreach efforts as a condition of participation in Medicare. Rather, the commenter believes that surveyors should find a facility in compliance with this requirement if it produces evidence that it provides written materials to individuals who come to the facility to investigate admission or to visit family members.

Response: Section 1866(a)(1)(A) of the Act requires that in order to participate in Medicare, any provider of services must meet the advance directives requirements set forth in section 1866(f) of the Act. Section 1902(a)(57) of the Act establishes a similar requirement for Medicaid participation. Thus, the elimination of the community education portion of the advance directive requirement would require statutory changes. As to the scope of community education activities, we do not believe it is appropriate to restrict this to individuals expressing interest in admission, since many individuals in the community who ultimately may require admission would profit from the chance to learn about State laws on advance directives.

Comment: Several commenters requested clarification of the statement in the preamble to the March 6, 1992 interim final rule (57 FR 8197) that ''whatever method is used, it must be in writing and subject to survey review for compliance with Federal requirements.'' The commenters believe that many readers would presume ''in writing'' to refer to a provider's description of activities with respect to community education, rather than the educational materials to be distributed. Finally, some facilities believe that distributing copies of their policies to the general public may be viewed as a form of unwanted advertising by those individuals who are not interested in particular facilities.

Another commenter objected to our suggestion that written information distributed could be similar to what is required to be disseminated to individuals upon admission. The commenter asserted that Congressional intent is simply to foster discussion about advance directives instead of

actively encouraging individuals to execute an advanced directive.

Response: As discussed above, we have revised §§ 417.436(d)(1)(B)(vii) and 489.102(a)(6) to require that providers must be able to document their community education efforts. The community education itself may be carried out through a variety of methods or formats, at the discretion of the provider. We are not requiring the distribution of any particular written material as part of a provider's community education efforts, although we recognize that many providers may choose to distribute written descriptions of their policies.

While we recognize that some individuals may view these programs as a form of unwanted advertising, we note that community education is a requirement under sections 1866(f)(1)(E) and 1902(w)(1)(E) of the Act and thus, we have no discretion to permit exceptions to these provisions.

We agree Congress intended to foster discussion about advanced directives, but we do not believe that community education constitutes encouraging individuals to execute advance directives. Again, community education concerning advance directives should involve not only a discussion of an individual's right to execute an advance directive, but also of a patient's broader right to accept or refuse medical or surgical treatment.

Comment: One commenter asserted that when community education is done in concert with other providers and organizations, it would be inappropriate for the attendees to receive written information detailing policies and procedures specific to each provider participating in community education efforts. Also, some commenters believe that creativity among providers and organizations, such as the use of lectures, seminars, videotaped programs and health fairs, will be discouraged if they are required to use the same material distributed to patients upon admission. Therefore, the commenter suggested that we modify § 489.102(a)(6), which requires that community education materials regarding advance directives include a provider's written policies regarding an individual's rights under State law and a provider's policies concerning the implementation of those rights. The commenter believes that we should instead require a provider to make the information about its policies on the implementation of the advance directives provisions available to attendees only upon request.

Response: We agree with the commenter that, for community education purposes, it may not be appropriate for a provider to distribute the same documents as are used by the provider to meet its internal advance directive obligations, especially when community education presentations are conducted by several different providers or provider types. The interim final rule merely presented several acceptable options aimed at assuring providers that they would not necessarily need to develop separate materials for both advance directive and community education purposes. Clearly, separate materials could be developed for each purpose, at the discretion of providers, and they would not need to use the same written materials in all contexts. We have amended §§ 489.102(a)(6) and 417.436(d)(1)(vii) to clarify that separate materials may be developed for both the advance directive and community education requirements.

Comment: One commenter, although in support of the community education requirement, was concerned that some health care providers, particularly small rural hospitals and other isolated or financially struggling institutions, may have problems meeting this requirement. Therefore, the commenter suggested that HCFA provide funding support for the educational initiatives.

Response: The advance directive provisions do not include authority to modify the current hospital payment system in order to assist providers in complying with the advance directives requirements. Therefore, we have not included provisions relating to payment in this regulation. However, hospitals as well as other providers reimbursed under the cost reimbursement system can receive reimbursement for incurred administrative costs, associated with the advance directive requirements.

Comment: One commenter believes that the use of the public relations offices to educate the community would preclude providers from obtaining State and Federal funding for advertisement campaigns. Another commenter believes the regulations should be revised to specify that the use of Federal and State funds is permitted for reimbursement of advance directive community education activities. The commenter believes that the cost of advance directive activities should be considered an allowable cost.

Response: Medicare policy has long provided that a provider's costs of advertising to the general public are not allowable if the advertising seeks to increase utilization of the provider's services. However, advertising costs incurred in connection with a provider's public relations activities are allowable if they are directly or indirectly related to patient care. (See section 2136 of the Provider Reimbursement Manual.) Thus, our suggestion in the interim final rule that public relations offices be used to inform the community about advance directives was not intended to suggest that we believe the associated costs should be disallowed. To the contrary, we believe public relations activities to inform the community on advance directives should be common and accepted activities in the provider community and that their costs generally would be related to patient care. In summary, we agree with the commenter that for Medicare providers that are paid on the basis of cost, the cost of advance directives activities could be considered an allowable cost related to patient care.

For Medicaid purposes, Federal financial participation at the 50 percent matching rate is available for expenses paid for by the State for administrative costs the State incurs for implementing the Medicaid requirements of this section. To the extent that States make additional payments to providers for their costs of advance directives activities, Federal financial participation is available at the Federal Medicaid Assistance Percentage.

Comment: Two commenters requested that the final rule explicitly define the size and parameters of the community for purposes of defining a provider's obligation to participate in community education efforts. The commenters suggested that, for nursing homes, these regulations limit the facility's community education program responsibilities to residents, their family members, resident and family councils (if any) and staff. Another commenter believes that education of the public at large should be solely the responsibility of the Secretary of the Department of Health and Human Services (HHS).

Response: In general, we believe that Congress intended that the concept of community encompass members of the general population that could potentially be served by a provider, rather than the much narrower interpretation suggested by the commenters. We believe that the concept of ''community'' as embodied in the law relates to the catchment area of the individual provider, which means that an HMO and a hospital, for example, would likely have community areas very different in scope. However, we do not intend to define the size and parameters of a community for each facility subject to this final rule because it would be cumbersome and overly prescriptive.

We note that the location, size, and other characteristics of the population served by different providers are some

of the factors that would impact on the manner in which a provider defines its community for purposes of the community education requirement. The various possible combinations of these factors make developing a fair, equitable definition of community difficult. For example, the use of geographical distances might place an unfair financial burden on rural, isolated hospitals while it might not further educate the public in urban areas where there are frequently multiple facilities in closer proximity who may possibly serve some of the same patients.

Moreover, as noted above, we believe that our survey of community education efforts by providers indicates that establishing more prescriptive requirements in this area is not necessary. Providers are already utilizing many different formats, working jointly to minimize the financial costs associated with community education and have done an excellent job without explicit guidance. Therefore, except with regard to managed care plans, we do not intend to define the term ''community'' for the purposes of this regulation but instead will afford providers the flexibility to define their own ''community''. As noted below in section IV, community has been defined as ''service area'' for managed care plans.

With regard to the suggestion that community education should be solely the responsibility of the Secretary of HHS, we believe that Congressional intent is clear on this subject. Sections 1866(f)(1)(E) and 1902(w)(1)(E) of the Act require that providers conduct community education activities, and section 4751(d) of Public Law 101–508 directs the Secretary to conduct a national campaign addressing public and medical and legal professions. The Secretary's public education responsibilities clearly are separate and distinct from provider responsibilities in this area. We note that providers, for example would bear the responsibility for informing the public about applicable State law requirements, which would be impossible to address in a national public education campaign.

Comment: One commenter suggested that the final rule require nursing facilities to conduct community education activities in the context of the resident rights requirements that were established under the nursing home reform provisions of OBRA '87. The commenter believes that community education programs should include diverse points of view on the issue of advance directives, including the right not to make an advance directive, and that providers should not limit a patient's options or influence patients as to the specific content of their advance directive. In addition, providers should ensure that all material presented is consistent with State law.

Response: Each nursing facility has the discretion to develop and conduct education programs that best suit their targeted population, and we encourage providers to coordinate their efforts to educate their residents and the community. When Congress enacted the advance directives provisions, it also amended the resident rights provisions of the statute (1819(c)(1)(E) of the Act) to effectuate the advance directives requirement for nursing homes. Therefore, it is expected that nursing facilities will incorporate advance directive information into their policies for informing residents of their rights. We note that § 483.10(b)(8) already specifies that facilities must ''inform and provide written information to all adult residents concerning the right to accept or refuse medical or surgical treatment and, at the individual's option, formulate an advance directive.'' In addition, § 483.10(b)(8) requires that facilities include ''a written description of the facility's policies to implement advance directives and applicable State law.''

Comment: Two commenters noted that the outpatient setting is the optimal forum for initial discussion of advance directives, rather than at the time of acute illness. Accordingly, one commenter suggested that we stress the need for providers to distribute information regarding patients' rights under State law to the widest audience possible, including outpatients and minors who have the capacity to be involved in decision-making.

Response: Sections 1866(f)(1)(E) and 1902(w)(1)(E) specify that a provider of services or eligible organization must provide (individually or with others) for education for staff and the community on issues concerning advance directives. As the commenter suggests, we believe that the clear intent of these provisions is that information concerning advance directives be made available to the widest possible audience. We have not provided more explicit guidelines on this matter because we believe that there must be sufficient flexibility to accommodate a variety of community and provider responses to this requirement.

As discussed above, sections 1866(f)(2) and 1902(w)(2) of the Act specify that hospitals, SNFs, and NFs must provide written information concerning an individual's rights under State law to accept or refuse medical or surgical treatment, including the right to formulate an advance directive to all adult individuals upon admission. However, we agree with the commenter that it would be beneficial to hospital patients and nursing home residents if information concerning advance directives were available before admission. Again, we believe that this eventually will be achieved through the providers' community education activities and the Secretary's national education campaign.

Comment: Although generally supportive of the need for the community education requirement, three commenters objected to permitting providers to use community education activities to fulfill their requirement to document the medical record concerning whether or not an individual had executed an advance directive. In particular, the commenters disagreed with our suggestion in the interim final rule that providers may ask attendees if they have executed an advance directive and then later document this information in the medical record (57 FR 8197). The commenters generally believe that these campaigns are primarily oral presentations to community groups and any attendee may or may not be subsequently admitted to the facility represented by the speaker. Thus, there would be great logistical problems as well as confidentiality problems in implementing our suggestion. Also, the commenter notes that providers do not have record systems to accommodate information regarding individuals who are not patients.

Response: We believe that the commenter raises several valid points. Therefore, in this final rule, we have omitted any suggestion that providers consider using the community education forum to obtain information as to whether or not an individual has executed an advance directive. We note that information about advance directives that is documented in an individual's medical record would be subject to the same confidentiality protection as other information in the medical record. For example, the regulations setting forth conditions for hospital participation in Medicare, § 482.24(b)(3) specify that hospitals must ensure the confidentiality of patient medical records and that information from or copies of records may be released only to authorized individuals. Hospitals are also required to ensure that unauthorized individuals cannot gain access to or alter patient records. These requirements apply to information entered into the medical

record as a result of the advance directive requirement.

Comment: Three commenters were concerned that the regulations neither require nor encourage providers to address the level of literacy for written English, the use of non-technical language in developing informational materials, etc., to ensure that the materials disseminated would be easily understood by the recipients. Many of the recipients of this information may not speak English or may speak English as a second language. Therefore, the commenter suggested that the regulations require that basic patient information materials be developed in other languages where the community composition warrants it. In addition, the commenter recommended that language barriers be anticipated, understood and handled appropriately with the assistance of interpreters.

Response: We believe that the statute and regulations require that providers distribute material that is clear and understandable to each patient. Sections 1866(f) and 1902(w) of the Act, and implementing regulations, specifically require that providers develop and disseminate to adult individuals written information about an individual's rights under State law to accept or refuse medical and surgical treatment and the right to formulate advance directives. Providers must also describe and distribute their written policies respecting the implementation of such rights. To meet the intent of the law (that is, to educate individuals concerning such rights), the written information must be clear and understandable. Therefore, we believe that it is inherent in the distribution requirement that the information be communicated in a language that the patient understands.

If the patient's knowledge of English or the predominate language of the facility is inadequate for comprehension, a means to communicate the information concerning patient rights and providers responsibility and practices must be available and implemented. For foreign languages commonly encountered in a provider locale, the provider should have written translations of its description of State law and its statement of procedures, and should, when necessary, make the services of an interpreter available. In the case of less commonly encountered foreign languages, providers may rely on the patient's representative to attest that he or she has explained the material to the patient.

Comment: Three commenters believe these regulations should consider differences in patients' cultural backgrounds. They stated that patients in today's American health system have diverse cultural and religious backgrounds and that, for some patients, discussions of even the possibility of death, whether imminent or remote, are a violation of their own cultural mores. The commenters view these regulations as an imposition on personal beliefs and values and believe that patients should be exempted on this basis; otherwise, clergy or other relevant staff members need appropriate experience or training in dealing with individuals on these sensitive issues.

Response: Although the law does not deal with these issues, we would expect a provider to be sensitive to the cultural differences in its community. We do not, however, believe the law provides for an exception to the requirement that all adult individuals receiving care be informed about their rights to accept or refuse medical or surgical treatment or to formulate an advance directive. We note that disseminating information and inquiring about the existence of an advance directive does not necessarily require that an individual discuss issues related to death. Instead, the focus should be on offering individuals information about their rights to enhance their control over medical treatment.

Comment: One commenter acknowledged that area hospitals, with or without outside help, have endeavored to instruct the public about advance directive requirements in order to avoid undue concerns when the patient is hospitalized. The commenter requested that HCFA distribute, or make available, publications that describe how hospitals have successfully instructed the community about this topic.

Response: In Appendix II to the preamble of the interim final rule, we identified a sampling of organizations and publications that could provide technical assistance on advance directive issues. While the statute does not require HCFA to become a ''depository'' for publications developed under this requirement, HCFA does maintain numerous materials concerning advance directives, as summarized in the preamble. Some materials may be obtained through the Medicare Hotline and others are disseminated to new Medicare enrollees. In addition to the resources that we have, we strongly encourage area providers and organizations to share experience and expertise in order to help one another develop the best informational packages possible for any given community.

Dissemination of Information

Comment: Several commenters requested clarification as to whether the requirement that hospitals provide information about an individual's right to accept or refuse medical or surgical treatment and to formulate advance directives to individuals upon admission also applied to ''providers of outpatient hospital services.'' Among the areas of concern were applicability to ''in-and-out'' surgical suites, dialysis facilities, and any patients undergoing general anesthesia, regardless of setting. Another commenter believes that emergency medical technicians or paramedics performing emergency services and ambulance transports should be subject to this regulation. The commenter argued that it is grossly unfair for the patient to receive CPR in the ambulance so that he can be ''allowed to die'' at the hospital.

Response: Sections 1866(f)(2)(A) and 1902(w)(2) of the Act specify that written information concerning an individual's rights to accept or refuse medical or surgical treatment and to formulate advance directives should be provided to an adult individual, in the case of a hospital, at the time of admission as an inpatient. We agree with the commenters that there are other health care situations in which it might be appropriate for a patient to be advised about advance directives; however, the statute is very specific concerning the settings to which these requirements apply. We note that these regulations do not preclude a State from requiring or a provider from voluntarily providing this information in any case where it believed it to be appropriate.

Section 1866(f) and 1902(w) do not require information to be provided in any outpatient settings except for home health, hospice, and personal care services. Thus, the statute does not require emergency medical technicians and paramedics to implement the advance directives requirements, although there is nothing in it that would prevent the operators of these services from giving individuals this information.

Comment: One commenter suggested that, for certain types of patients, a hospital be permitted to modify its procedures in order to implement this rule logically. For example, the commenter believes that it is inappropriate to disseminate advance directive information to hospital patients being admitted for labor/delivery, or to repeatedly disseminate information to multiple admissions patients. If these procedures are not modified, multiple admission patients

may find themselves collecting large numbers of the same brochure on advance directives. The commenter also recommended that we not require hospitals to disseminate advance directives information to individuals undergoing same-day outpatient surgery or emergency room treatment.

Response: Sections 1866(f)(2)(A) and 1902(w)(2)(A) of the Act explicitly require that hospitals disseminate advance directive information to individuals at the time of their admission as inpatients. Neither the statute nor the regulations require the dissemination of this information to outpatients or emergency room patients unless they are admitted to the hospital. When a patient is admitted, however, we have no discretion to permit exceptions to this requirement. We note that hospitals repeat many admission procedures as part of every separate admission, often in accordance with applicable State and Federal laws. Even in multiple admission cases, the dissemination of information and inquiry about the existence of an advance directive should not impose a significant burden on hospitals and helps ensure that the patient is knowledgeable about his or her rights, along with verifying that the hospital has the most recent copy of an individual's advance directive. Patients are always free to return the brochure or refuse the information if they have already received it.

Comment: Some commenters suggested that the final rule address the tendency of individuals, once presented with this written information, to desire to execute advance directives upon admission or ''on the spot.'' The commenters believe that the time of admission may not always be the best time to complete and execute advance directives because of the tension, anxiety and depression often experienced by individuals about to be admitted. The commenters added that advance directives should be executed only after prudent reflection.

Response: The commenter has raised several valuable points. A hospital could address the commenter's concerns by providing advance directives information on a preadmission basis (for elective admissions) and also through its efforts to educate the community as to the advance directives options available under State law. Although these regulations do not prevent a provider from assisting a patient in completing an advance directive if the patient so desires and the hospital is willing, the provider should ensure that there are no State laws that may preclude this activity. We would stress that the law and this regulation contain a limited range of requirements relating to advance directives. We do not believe it is appropriate to extend the requirements of this final rule beyond the confines of law. Instead, we believe it is appropriate that providers retain the flexibility to continue to refine their application of the advance directive provisions based on their experience.

Comment: Two commenters strongly suggested that the final rule expressly direct providers not to disseminate or execute advance directive forms routinely at the point of admission, but only upon request. Another commenter suggested that if copies of advance directives forms are given out, that a representative sample be given, or be made available upon request, so that the patient can be fully aware of the various kinds available. Finally, a few commenters argued that while it may be legally permissible for providers to disseminate advance directive forms, actively assisting an individual in the preparation of a will, a durable power of attorney, or other documents of legal import would constitute the practice of law. Therefore, the commenters recommended that the final rule should explicitly forbid the provider from drafting, interpreting, advising and assisting individuals in the execution of such documents by persons who are not licensed to do so under State law.

Response: This final rule neither requires providers to disseminate advance directives forms upon admission nor does it prohibit them from doing so. We know that different groups of hospitals have adopted different policies as to the appropriateness of this practice, and we also believe that State laws may bear on this activity. Again, the statute and this rule focus on ensuring that individuals are informed of their rights with regard to the advance directives, not on prescribing procedures for executing directives.

We decided not to adopt the suggestion that we require providers to supply a representative sample of forms since we have no statutory authority to do so. Also, this final rule does not address the issue of whether assisting an individual in preparing a living will, a durable power of attorney or other documents of legal import would constitute an unauthorized practice of law. Providers should look to State laws that may address the legality of these actions.

Comment: Several commenters suggested that the widest latitude be offered for providers to disseminate information to patients about their advance directives rights under State law and the provider's policies concerning the implementation of those rights. One commenter specifically suggested that the timing for dissemination of materials be adjusted by the nursing facility according to its admissions practices. For example, one facility's ''admission process'' may not involve the level of personnel who would have the education and training to provide advance directive information in a manner most helpful to patients. Yet, another facility's ''admission process'' may include the use of qualified staff, such as a nurse, and may involve an initial nursing/comprehensive assessment that is usually completed within 6 hours of admission. Another commenter suggested that these regulations be applied in conjunction with other nursing home requirements, for example, the free choice provision under the resident rights requirement (§ 483.10(d)) or the scope of services provisions under the plan of care requirement (§ 483.20(d)(1)), which would provide the additional time needed to disseminate information regarding advance directives. The commenters further suggested that the advance directive documentation should be done as part of the care plan and revisited at the quarterly care planning meetings. Finally, the commenters suggested that, for home health agencies and personal care providers, the required information should be disseminated during the first visit but before actual delivery of care, in the same manner as other patient rights information.

Response: We have attempted to address these concerns in this final rule within the confines of the statute. Hospitals and nursing facilities must follow the explicit language of sections 1866(f)(2) and 1902(w)(2) of the Act, which require that information concerning advance directives be provided ''at the time of admission.'' We do not believe that the statute affords us the discretion to implement any of the commenters' suggestions for revising the meaning of ''at the time of admission'' as it applies to nursing homes.

For HHAs, sections 1866(f)(2) and 1902(w)(2) of the Act require that the information be provided ''in advance of the individual coming under the care of the agency,'' without specifying a particular time. We believe it is reasonable to permit this function to be performed at the time of the first home visit, as long as the information is given before care is provided. This visit traditionally encompasses patient assessment and the administrative details necessary for the start of home

care, and we believe it would be appropriate to comply with the advance directive requirements at this time. Therefore, we have amended regulations at §§ 484.10(c)(2)(ii) and 489.102(b)(3)(i) to clarify that an HHA may furnish advance directive information to a patient at the time of the first home visit, as long as the information is furnished before care is provided.

A similar requirement has been adopted with regard to personal care providers. We have amended regulations at §§ 489.102(b)(3)(ii) to clarify that they may furnish advance directive information to a patient at the time of the first home visit, as long as the information is furnished before care is provided. (For further discussion of the timing issue as it concerns HMOs and CMPs, see Section II.B of this preamble below).

Comment: One commenter asserted that some nursing home patients are unable to receive this information immediately upon admission and noted that, in accordance with OBRA '87, nursing homes have an added requirement to advise these individuals in a way that they will understand. The commenter believes that the best method to achieve this is through some sort of discussion. Some patients have experienced emotional breakdowns upon being informed of their rights with regards to advance directives because they think they are about to die. The commenter suggested that for SNF and NF residents who appear likely to be threatened by this conversation at the time of admission, these regulations permit the dissemination of information and discussion to occur at some time between entry to the facility and completion of the initial minimum data set (or resident assessment). Therefore, the commenter suggested that we define ''at the time of admission'' to mean that the information must be given promptly upon (but no later than 14 days after the date of admission), which is in accordance with the meaning of ''upon admission'' under section 1819(b)(3)(C)(i) of the Act.

Response: We do not believe that it is appropriate to permit information routinely to be delayed simply because it is of a sensitive nature. However, some residents may well be incapacitated by virtue of a physical or mental disorder, in which case the information could be provided at a later time, if feasible. We believe this is a medical decision to be made by the facility after considering the patient's medical condition and the likelihood of any negative effect upon the patient. This determination should be made on a case-by-case basis by the facility in accordance with State law. This issue also is discussed below under the heading ''Individuals Incapacitated at Admission''.

Sections 1819(b)(3)(C)(i) and 1919(b)(3)(C)(i) of the Act specify that a SNF and NF must conduct a comprehensive resident assessment for each individual promptly upon admission, but not later than 14 days after the date of admission. In general, nursing homes use registered nurses or other trained personnel to conduct resident assessments, and depending on the medical condition of the resident, this assessment may become a lengthy process. In contrast, sections 1866(f)(1) and 1902(w)(1) of the Act do not specify any particular health care discipline or trained personnel to disseminate information on advance directives or to document in the resident's medical record whether or not the individual has executed an advance directive. Therefore, we believe that it is not necessary or consistent with the advance directives statute to revise the regulations to routinely allow up to 14 days to disseminate this information as the commenter suggests.

Individuals Incapacitated at Admission

Great concern was voiced by commenters concerning the provision of advance directive information to psychiatric patients, and to patients suffering from Alzheimer's disease or other diseases affecting an individual's decision-making capacity. In particular, commenters suggested that the advance directive information may exacerbate the symptoms of mental illness and hamper psychiatric treatment, especially for suicidal patients. The commenters offered the following suggestions to address the overall issue of individuals incapacitated at the time of admission and other related issues.

Comment: One commenter suggested that the regulations implementing the advance directive requirements include a provision for a ''good faith exception to the Act'' for all psychiatric hospital admissions or, at a minimum, for those persons involuntarily admitted for psychiatric treatment because they have been determined to be dangerously mentally ill.

Response: Sections 1866(f)(1) and 1902(w)(1) of the Act specify that the advance directives requirements apply to all adult individuals receiving medical care. Therefore, we believe that a general ''good faith'' exception is precluded by the law. Although we recognize that certain individuals may not be able to receive information about advance directives due to incapacity, we believe that such a determination must always be made on a case-by-case basis by the facility in accordance with State law.

Comment: Two commenters noted that the interim final rule did not specify the personnel that would be responsible for determining whether or not an individual was capable of receiving information concerning advance directives. The commenters believe that further guidance is needed in this area and suggested that the final rule require that the professional judgment of a qualified healthcare professional (such as a physician, nurse or social worker) be used to determine when an individual can receive this information.

Response: Since the statute is silent on this issue, we do not believe it would be appropriate to impose on providers by regulation a requirement that only a physician or nurse is permitted to make the professional judgment concerning an individual's capacity to receive this information. Therefore, we defer to State law addressing the subject. Where there are no State laws concerning this subject, then the institution may make the decision.

Comment: Some commenters interpreted the discussion of the incapacitation issue in the interim final rule (57 FR 8197) as requiring hospitals to disseminate information concerning a patient's right to accept or refuse medical or surgical treatment and to formulate an advance directive to family members or surrogates when the individual is incapacitated upon admission. They stated that such a requirement would extend beyond the scope of the statute and suggested it be deleted. One commenter stated that, in some States, third parties (for example, family and/or surrogates) may execute advance directives or otherwise act without meaningful restriction on behalf of an incapacitated patient, in the absence of an advance directive executed by the patient. The commenter suggested that the regulations explicitly state that the advance directive requirements only apply to an individual patient's rights; thus third parties should have no further role but to receive the information on behalf of the incapacitated individual.

Response: We did not require that family members or surrogates receive advance directives information in place of incapacitated patients. We merely suggested that providing them with this information, to the extent the facility provides such individuals with other information related to the patient's care, would be appropriate and might help the provider discover the existence of an advance directive. We agree that

sections 1866(f) and 1902(w) of the Act apply only to individual patient's rights and that these statutory provisions do not create a right for third parties to receive information on advance directives or to execute advance directives on behalf of incapacitated patients. However, we are aware that some States permit third parties to execute advance directives on behalf of an incapacitated patient. We believe that defining rights of third parties as the commenter suggested would conflict with Congressional intent that issues not addressed through explicit provisions of the statute be decided under State law.

Comment: One commenter stated that there has been some confusion among facilities concerning the implementation of advance directive requirements for incapacitated patients. As a result, some facilities are requiring the appointment of a guardian over their residents for purposes of meeting these requirements. The commenter suggests we address this issue.

Response: The determination of whether or not an individual is incapacitated and unable to receive advance directives information and the role of surrogate third parties are issues that involve both the individual's medical condition and State law regarding decision-making authority in such cases. We defer to State law on these issues. The appointment of a guardian is not required by the statute but is left to the discretion of the facility in accordance with applicable State law.

Comment: One commenter suggested that the regulations clarify that no assumptions be made by third parties regarding an incapacitated resident's right to accept or refuse medical or surgical treatment in the event the resident has not executed an advance directive.

Response: The statute does not grant authority for actions on the part of the family or surrogate for the incapacitated individual. Therefore, providers should look to State laws that address responsibility for treatment decisions in those instances where an individual is incapacitated.

Comment: One commenter suggested that, in order to facilitate the development of policies concerning incapacitated individuals, we allow national organizations such as the American Psychiatric Association, the National Association of Private Psychiatric Hospitals and the American Hospital Association to develop guidelines or recommendations on how to address incapacitated patients in providers' written policies concerning advance directives.

Response: Providers and organizations should have already completed their policies and procedures on these advance directive requirements. However, particularly in light of the changes in the regulations included in this final rule concerning providing advance directives information to surrogate decision-makers, we encourage national organizations to work with providers to help them refine their policies concerning this portion of the advance directive requirements.

Comment: We received several comments on the statement in the preamble of the interim final rule that indicated that providers are obligated to track patients who are unconscious on admission in order to determine when they are able to receive information concerning advance directives (57 FR 8197). Some commenters stated that this requirement was unnecessary in cases in which hospitals provided the information upon admission to family members, or surrogates, since it is likely that the family would pass the information on to the patient when he or she regained consciousness. Other commenters supported the requirement and suggested that we require periodic reassessments of comatose patients to determine when they are able to receive the information. One commenter asserted that some patients may never regain decision-making capacity while hospitalized and are often discharged without ever having been in a condition to receive the required information. The commenter suggested we specifically address whether a facility still is obligated to provide the information under these conditions.

Response: Sections 1866(f)(1)(A) and 1902(w)(1)(A) of the Act specify that it is the patient's right to formulate an advance directive and the provider's obligation to inform the patient of that right. We do not believe that a provider can meet this obligation by providing information to surrogate decision-makers or family members. In this final rule, we have clarified this point by adding language at §§ 417.436(d)(1)(ii), 483.10(b)(8), and 489.102(e) to specify that facilities may give advance directive information to the patient's family or surrogate, but this does not relieve the facility of its obligation to provide this information to the patient once he or she is no longer incapacitated or unable to receive such information. Therefore, the provider will need to develop follow-up procedures to determine if and when the patient may be given the information directly.

We agree that it would be appropriate to conduct periodic reassessments of comatose patients; however, we believe that the timing of reassessments should be determined by the provider based on the medical condition of the individual patient. If an individual remains incapacitated throughout an entire hospital stay, we recognize that there may never be an opportunity for the advance directives information to be provided. In such cases, we would expect the provider to document in the patient's medical record its awareness of its obligation and its continuing judgment that the patient's medical condition does not permit the information to be provided.

Objections Based on Conscience

Comment: Several commenters requested additional information on our policy in situations in which a health care provider, as a matter of conscience, cannot implement an advance directive. Specifically, the commenters requested that we clarify the requirement under §§ 417.436(d)(1)(i)(B) and 489.102(a)(1)(ii) that the written policies of a provider or organization include ''a clear and precise statement of limitation if the provider cannot implement an advance directive on the basis of conscience.'' One commenter suggested that the explanation of State law concerning objections on the basis of conscience mirror either the State law or the State-developed description of the State law concerning this topic. Two other commenters suggested that, where State law permits a conscientious objection, the regulations should require that the provider's explanation: (1) Clarify any differences between institution-wide conscience objections and those that may be raised by individual physicians; (2) explain the basis for the objection (that is, whether it is based on various religious, moral, or professional grounds); (3) identify the State legal authority permitting such objection; (4) describe the range of medical conditions or procedures affected by the conscience objection; (5) describe what steps will be taken to transfer or otherwise accommodate individuals whose wishes are impeded by the institution's policy; and (6) describe what, if any, burden will be placed on the patient or the patient's surrogate decision-maker to help effectuate the implementation of the advance directive. Finally, one commenter asked whether Medicare and Medicaid payments would be terminated if an entire institution objects to implementing advance directives on the basis of conscience.

Response: Sections 1866(f)(1)(A) and 1902(w)(1)(A) of the Act require that providers and organizations furnish individuals receiving medical care with written information concerning an individual's rights under State law and the provider's policies concerning the implementation of these rights. Also, section 4206(c) of OBRA '90 and section 1902(w)(3) of the Act provide that the statutory advance directive requirements do not prohibit the application of a State law that allows for an objection on the basis of conscience for any provider (or its agent) that, as a matter of conscience, cannot implement an advance directive. As the commenter noted, implementing regulations at § 417.436(d)(1)(i)(B) and 489.102(a)(1)(iii) require that this information include a statement of limitation if a provider cannot implement an advance directive on the basis of conscience. We agree that the written information may mirror State-developed descriptions of State law concerning advance directives. However, we do not believe that requiring a provider to supply copies of applicable State law is necessary, because the statute requires the dissemination of descriptions of State laws. We believe that Congress imposed this requirement because many State statutes may be written in technical terms that may be misunderstood. We have reviewed the six suggested requirements for statements of limitation. We believe that the commenters have highlighted some important minimum points of information that should be given to all affected individuals, but we also believe some of the suggestions go beyond the intent of this law. As a result, we have decided to implement the first, third and fourth of the commenters' suggested requirements.

We have several reasons for not adopting the second, fifth and sixth suggested requirements. We have not adopted the second suggestion because the basis for the objection is not necessarily material as long as the objection raised is permitted by State law. A provider may wish to explain an institutional policy; however, an individual physician or practitioner may not wish to do so, and neither of them is required by this law to do so. We have not adopted the commenter's fifth suggestion concerning transfers for a similar reason. The law does not require this level of information. We note that if an individual is given information regarding the provider's conscientious objection, and he or she does not request a transfer, the provider is not obligated to implement any elements of an individual's advance directive that conflict with the provider's conscientious objection. However, it is reasonable to expect that assistance would be provided for a transfer at the patient's request. We did not accept the commenter's last recommendation because we do not believe it would be reasonable to require that a provider speculate on what, if any, burden would be placed on patients or surrogate decision-makers to help effectuate the implementation of an advance directive. Therefore, we are revising the regulations at §§ 417.436(d)(1)(i)(B) and 489.102(A)(1)(ii) to include only the first, third, and fourth points.

Finally, when a entire facility opts to object on the basis of conscience, assuming the objection is permitted under State law and the facility complies with all other provisions of the statute and regulations, neither Medicare nor Medicaid reimbursement will be interrupted.

Comment: One commenter requested that we clarify that a provider is not required to implement an advance directive to which the provider objects on the basis of conscience when the State law is silent or does not specifically prohibit such objection.

Response: The advance directives legislation does not give us authority to make such a clarification. We believe that, unless State law allows a provider to object to implementing an advance directive as a matter of conscience, the provider is required to honor the advance directive as written. As discussed in the preceding response, we have revised §§ 417.436(d)(1)(i)(B)(3) and 489.102(a)(1)(ii)(C) to specify that a provider's statement of limitation must identify the ''State legal authority'' permitting an objection on the basis of conscience.

We note that State statutory law may be silent on a particular issue, such as whether a provider may decline to follow a directive to which it objects on the basis of conscience. As we suggested in the interim final rule, in the absence of statutory law, providers should look to common law or case law for guidance (57 FR 8197).

Comment: One commenter asserted that religiously-sponsored facilities have the right to exercise an objection on the basis of conscience to the requirement that facilities conduct community education. Otherwise, enforcement of the community education requirement would violate provider's First Amendment rights to adhere to their religious beliefs.

Response: Section 1902(w)(3) of the Act and section 4206(c) of OBRA '90 specifically refer to the application of State laws regarding conscientious objections. These statutory provisions permit exceptions to implementing advance directives based on a conscientious objection as prescribed under applicable State law. No provision is made for an exception to sections 1866(f)(1)(E) and 1902(w)(1)(E) of the Act concerning community education efforts. Thus, the provider must meet the requirements relating to community education; that is, the provider must furnish information to the community concerning State law regarding the right to accept or refuse medical or surgical treatment and to formulate an advance directive, even if the provider simultaneously informs the community that it is exercising a conscience objection that would permit it to refuse to honor an advance directive.

Comment: One commenter believes that it would be difficult if not impossible for many providers, especially Roman Catholic facilities, to provide a precise statement of limitation if a provider cannot implement an advance directive on the basis of conscience. According to the commenter, there are various ethical, religious and moral restrictions on whether or not a particular advance directive can be implemented at a Catholic facility. Another commenter believes that providers may not always be able to write clear and precise statements of limitation when objecting on the basis of conscience and requested that the regulations permit alterations to the written policy based upon case-by-case determinations of issues not previously considered by the facility.

Response: As discussed above, we have revised the regulations at §§ 417.436(d)(i)(B) and 489.102(a)(1)(ii) to provide further clarification on the content of the statement of limitation. Regardless of their religious affiliation, facilities may comply with the law by providing patients with written materials containing the minimum points of information required by these regulations. These revisions describe the minimum amount of information that should be included in the statement of limitation. For the most part, we believe that the statement of limitation can be written to accommodate or reflect the case-by-case approach. Although we cannot readily envision a situation in which the required information, if properly provided, would not adequately inform the patient, we agree that such a situation would permit an individualized notice.

Where an individualized notice is needed, facilities may comply with the law by providing patients with written materials indicating the basis upon which decisions will be made, that each decision would be unique, and how the patient may predict the decision in his or her own case. It is not necessary that the written material distributed to patients contain enough information to permit the patients to make a definitive determination about what action the provider will take in every situation. It is only necessary for the provider to state its policy with respect to complying with the provisions of State law regarding an adult individual's right to accept or refuse medical or surgical treatment or formulate an advance directive, even if that policy is to make individual decisions based on religious rules.

Comment: Two commenters requested more guidance on how providers are to deal with individual health care professionals who object to executing an advance directive on the basis of conscience. One commenter stated that although the interim final rule did not require that lists of members of a hospital medical staff be provided to individuals, the regulation text should clarify that hospitals are not expected to provide information about the moral reservations of individual members of the medical staff. Any document describing each physician's position on advance directives would be potentially lengthy, constantly in need of updating, and of little use to patients, who typically choose their physicians before entering the hospital.

Response: We believe a provider may well have a policy under which an individual physician or its medical staff may determine (consistent with State law) whether to honor advance directives. If this is the case, the provider would need to inform the patient of this policy, so that the patient could consult with his or her physician on the subject, as necessary. It would be up to the patient, having been informed of the provider's policy, to consult with the physician.

Although a hospital with a complicated policy may need detailed documents to describe it, we do not believe that this would always be the case. In addition, as the commenter noted, many individuals choose their physicians long before admission and may already have discussed these issues with them. However, although we agree with the commenter that a document describing the positions of individual physicians concerning advance directives would be quite lengthy and of little use to patients, we do not believe it is necessary or appropriate to state in regulations that hospitals are not expected to provide information about the moral reservations of medical staff.

Comment: One commenter noted that the requirements at §§ 417.436(d)(2) and 489.102(a)(1)(ii) specify that a provider is not required to provide care that would conflict with an advance directive and is not required to implement an advance directive if, as a matter of conscience, the provider cannot implement an advance directive and State law allows any health care provider or any agent of such provider to conscientiously object. The commenter believes that these requirements would permit the transfer of a patient when a provider cannot honor his or her advance directive and thus are in conflict with the ''anti-dumping'' rules, which prohibit the transfer of emergency patients except under limited conditions. The commenter suggested that the advance directive provisions be amended to prohibit patient transfers, except under the permissible circumstances in the anti-dumping rules concerning stabilizing the patient.

Response: We disagree with the commenter's assertion that the provisions of this regulation permitting a patient transfer would violate the ''anti-dumping'' statute. The anti-dumping statute (section 1867 of the Act) provides for patient-initiated transfers so long as they are properly documented and done in accordance with applicable Federal and State law. Therefore, we do not believe that a transfer that is requested by a patient after being informed by a provider that it cannot honor an advance directive on a basis of conscience (to a provider who will honor the advance directive) would violate the ''anti-dumping'' statute.

Comment: One commenter believes that physicians are not normally considered agents of health care providers, and thus providers are not responsible for the actions of their individual physicians. The commenter suggested that the final rule clearly acknowledge the need for a collaborative judgment between providers, their agents, and physicians as to when a provider or its agent chooses to exercise an objection on the basis of conscience.

Response: As noted above, section 4206(c) of OBRA '90 and section 1902(w)(3) of the Act do not prohibit the application of State laws that allow for an objection on the basis of conscience for any provider or any agent of a provider that, as a matter of conscience, cannot implement an advance directive. The meaning of the term ''agent'' varies from State to State, and Congress did not define this term in the advance directives provisions. Therefore, for purposes of this final rule, the term ''agent'' is defined by applicable State law.

Regardless of whether or not State law defines a physician as an agent of the provider, sections 1866(f)(1) and 1902(w)(1) of the Act clearly establish that it is the health care provider's responsibility to have a policy on advance directives and to assure that it is followed. Implementing regulations at §§ 417.436(d) and 489.102(a)(1)(ii) require that a provider's policies include a statement of limitation if the provider cannot implement an advance directive as a matter of conscience. To the extent that close collaboration between provider medical staff and other staff is necessary to implement the provider's advance directive policies, it is the responsibility of the provider to assure that it occurs. Ordinarily providers assure compliance through such mechanisms as medical staff by-laws, which physicians agree to observe in return for staff privileges.

Comment: One commenter stated that before a patient's admission, providers should be required to publicize their position on any advance directive they cannot fulfill. As part of this process, the commenter suggested we require providers and organizations to place this information in preadmission packages to be received by the individuals within 10 days before elective admission.

Response: As we have noted elsewhere, we do not believe that the provisions of this regulation should limit individual provider choices on such issues as when to send out pre-admission information packages. Sections 1866(f)(1)(A) and 1902(w)(1)(A) of the Act require that providers provide written information to each individual concerning an individual's rights under State law to accept or refuse medical treatment, the right to formulate an advance directive, and the written policies of the provider respecting the implementation of these rights. Sections 1866(f)(2)and 1902(w)(2) specify when this information must be furnished. These requirements are also set forth in regulations. Also, as discussed in detail above, we require that if a provider cannot implement an advance directive due to a conscientious objection, its written policies must include a clear and precise statement of limitation, as described under §§ 417.436(d)(1)(i)(B) and 489.102(a)(1)(ii).

We believe that these requirements are sufficient to ensure that there is a

timely exchange of information between providers and patients with respect to advance directives, without unnecessarily limiting provider flexibility. Thus, although we encourage providers to include any statement of limitation in pre-admission materials, we do not believe it would be appropriate to impose requirements concerning pre-admission materials.

Descriptions of State Law

Comment: One commenter suggested that we prescribe in regulations the process that States must follow when developing the written descriptions of State law concerning advance directives. At a minimum, the commenter believes that the process should include participation by providers, consumers, community advocacy groups, bar association groups and others. The commenter believes that the written description of the State's advance directive requirements should be reviewed in draft form to ensure that it can be understood by non-experts of average reading ability. Also, the description should be certified as to its accuracy by the State's Attorney General or other legal advisor with the necessary expertise in this area (for example, a commission, committee, court, judicial panel, etc.). Other commenters recommended that information distributed to patients should be subject to review by the State agency upon the receipt of any complaint that the information does not comply with the standard of strict objectivity in describing State law.

Response: The requirement that each State develop a written description of its law concerning advance directives has been in effect since December 1, 1991, and States have followed varying practices in meeting the requirements of the law. At least a few States have consulted widely while other States have issued requirements prepared by the State's Attorney General. This is in keeping with alternatives offered by the statute, and we do not believe it would be appropriate to limit State flexibility on this matter in this final rule. We note that State survey agencies would have the opportunity to review the contents of provider advance directive packages, which could include ensuring that descriptions of State law are accurate.

Comment: One commenter suggested that we request that the Attorney General in each State publish a written description of the State law concerning advance directives and update it regularly.

Response: Section 1902(a)(58) of the Act requires that each State, ''acting through a State agency, association, or other private nonprofit entity, develop a written description of the law of the State (whether statutory or as recognized by the courts of the State) concerning advance directives that would be distributed by providers or organizations under . . . [the Medicaid requirements].'' While we are not making this a requirement, a State may use its Attorney General to prepare the description of State law. In addition, we note that under the Medicaid program, we are requiring that States revise their descriptions of State law and furnish copies of revised descriptions to providers and managed care plans within 60 days from the effective date of a change in State law (see revised § 431.20(b)). Under both Medicare and Medicaid, managed care plans and all providers must provide updated written information to adult individuals within 90 days of the effective date of any new State law.

Comment: Two commenters suggested that we require Medicare providers to use the State-developed description of State law in their informational materials. The commenters believe that Congress intended to mandate the use of the State-developed description similar to the requirement for Medicaid providers and that the lack of such a requirement in section 1866(f) of the Act was a Congressional oversight. The commenters suggested we amend § 431.20(b) to implement this requirement.

Response: As the commenters point out, section 1902(a)(58) of the Act specifically mandates the use of the State-developed description for Medicaid providers, but there is no statutory provision regarding the use of the State-developed description for Medicare providers. Also, we have found no evidence in the legislative history that the Congress intended to implement this requirement for the Medicare program. Therefore, we have not mandated the use of the State-developed description for Medicare providers.

Comment: Four commenters disagreed with our suggestion in the interim final rule that States may prescribe the content of the information disseminated by Medicaid providers, including requiring ''that Medicaid providers use the State-developed descriptions of State law only'' (57 FR 8197). These commenters urged that we withdraw this suggestion in the final rule. Another commenter asserted that providers may misconstrue our suggestion to mean that they should use the State's description only, when providers should be allowed to supplement these descriptions with their own materials as needed. This commenter suggested that we avoid the use of the word ''only'' in this context. Alternatively, States could allow providers to incorporate the general information contained in the State-developed descriptions of State law into their own packages of materials that include their written policies regarding the implementation of an individual's rights under the advance directive provision.

Response: States have the authority to administer the Medicaid program under broad Federal guidelines coupled with each State's own statutory and regulatory requirements. The advance directive provisions of the statute, as well as the implementing regulations, have been designed to ensure that States maintain maximum autonomy and flexibility in this area. The discussion in the preamble to the interim final rule merely reflected possible approaches that States could take in providing the required information, and we continue to believe that the approaches are consistent with the statutory requirements. Therefore, each State's law determines if providers are restricted to using only the State-developed descriptions of State law regarding advanced directives or if providers are permitted to supplement these descriptions with their written policies concerning advanced directives.

Comment: Several commenters suggested that, to the extent that providers are allowed to develop their own descriptions of State law, the final rule should require States to have a process in place to evaluate and pre-approve the provider's particular version of the description of the State's law. The commenter believes that without such a requirement, the various descriptions being used by different providers may be inaccurate or inconsistent. To ensure uniformity, the commenter suggested that HCFA actively encourage States to use a single, uniform State description.

Response: We believe it to be beyond the intent of the statute to require that States evaluate and pre-approve the provider's versions of any description of State law. The States themselves are best equipped to determine whether or not they should evaluate and pre-approve a provider's description of State law, and we have preserved the flexibility for them to do so in this final regulation. However, it is important to note that section 1902(a)(58) of the Act requires that the State, acting through a State agency, association, or other private non-profit entity, develop a written description of the State law

concerning advance directives to be distributed to Medicaid providers and HMOs. HCFA believes that the availability of this document and the coordination among all providers will ensure that the descriptions are accurate and consistent.

Comment: Many commenters responded to our request for recommendations on what would be a reasonable time period for States and providers to incorporate descriptions of changes in State law into provider information packages and for providers to distribute this information. The recommended time periods varied widely, ranging from as soon as practicable, to 60 days, not less than 90 days, not more than 4 to 6 months, annually (requested by HMOs, in particular, to coincide with the annual schedule for reprinting and distribution of enrollment materials, also see section II.B, below), and no later than by the time of the effective date of individual State law. In addition, a number of commenters suggested a two-step time frame—a deadline on States to revise the State description of the law and issue copies to providers and organizations and a second deadline on providers to revise and disseminate their materials to adult individuals coming under their care. Two commenters suggested that we prescribe the timing requirements in the regulations.

In addition, one commenter expressed concern that providers may think they have some obligation for monitoring and interpreting changes in State law. This commenter believes that it is inappropriate to depend on providers to monitor or interpret changes in State law and that Congress would not require States to develop descriptions of their laws without the implicit intent that States would also be responsible for updating the descriptions. Unless States are required to update their own description, the commenter believes that consistency will be lost over time. The commenter suggested that HCFA clarify that it is the responsibility of States, not the providers, to update these descriptions.

Response: In general, we believe that States, as well as providers and managed care plans, will wish to revise advance directive information packages promptly in order to ensure that they disseminate the most accurate information possible concerning State law changes relating to advance directive issues. Realistically, however, we know that it will take some time to receive the information, revise their summary descriptions of State law, and print and disseminate these updated summaries. Based on our review of all recommendations, we are imposing two new independent requirements for States and providers for updating descriptions of State law. First, under the Medicaid program, we are requiring that States revise their descriptions of State law and furnish copies of revised descriptions to providers and managed care plans within 60 days from the effective date of a change in State law. Second, under both Medicare and Medicaid, managed care plans and all providers must provide updated written information to adult individuals within 90 days of the effective date of any new State law. Thus, in situations where States have an obligation under the Medicaid program to develop descriptions of State law, we are allowing providers an additional 30 days in order to permit them sufficient time to adopt language from State law or State-developed descriptions where necessary.

We are revising §§ 431.20(b) and 489.102(a)(1)(i) to reflect these two requirements. (See the discussion in section II.B below regarding timeframes for managed care plans.) States or providers that disseminate outdated materials during the grace periods established by this regulation would not be violating the Federal requirements regarding the dissemination of written information about an individual's rights under State law only. However, this grace period will not protect a provider from an action in State or Federal court resulting from any harm caused by the dissemination of outdated material. In addition, States are free to impose more restrictive requirements on the dissemination of updated materials.

Also, § 430.12(c)(1)(ii) requires that a State amend its State plan to reflect material changes in State law. Since the State is required to include a written description of its law concerning advance directives in its State plan, any changes in State law concerning advance directives must not only be furnished to providers participating in the Medicaid program, but must also be included in the State plan. To be consistent, we are revising § 430.12(c)(1)(ii) to require the amendment to be submitted as soon as possible, but no later than 60 days from the effective date of the law.

Comment: Another commenter suggested that the Secretary be given 60 days to notify State Medicaid agencies, licensure agencies and providers of changes in Federal law, and that these groups then have 60 days from the date of Federal notification to implement corresponding changes in their respective responsibilities.

Response: Changes in Federal law take effect in accordance with the effective dates established by the Congress in the statute in which they are enacted. The Secretary generally is not responsible for notifying States or providers of statutory changes; nor are the effective dates of statutory changes generally subject to the Secretary's discretion.

Comment: One commenter suggested that the determination of when State case law has changed for purposes of mandatory alteration of policies and procedures be uniformly fixed at the highest appellate court of a State, so that informational materials may be amended at a consistent time throughout affected States. However, the commenter also believes that some provision should be made for discretionary changes in the statement of State law disseminated by the State, based upon an analysis of intermediate appellate or trial court decisions.

Response: We have already outlined the timeframes for providers to incorporate descriptions of State law into their policies and procedures. With regards to revisions or amendments that may occur as a result of appellate or trial court decisions, we believe that States are best suited to respond timely to such changes. Therefore, States should be responsible, on a case-by-case basis, for determining when State law has changed and thus, when providers must revise informational materials. Medicare and Medicaid providers may have wide discretion in designing informational materials for dissemination to patients and residents, or States may institute more specific requirements under either or both programs. We do not choose to abridge State flexibility on this issue.

Provider Agreements

Comment: One commenter expressed concern that § 431.107(b)(4) of the interim final rule appears to require that the State Medicaid agency revise provider agreements to incorporate the requirement that providers comply with the advance directives requirements. The commenter believes that this requirement can be made binding upon the State Medicaid agencies and providers without the administrative burden associated with issuing new provider agreements.

Response: Section 431.107(b)(4) requires that a State plan must provide for an agreement between the Medicaid agency and each provider or organization furnishing services under the plan in which the provider or organization agrees to comply with the applicable advance directive

requirements. The changes to § 431.107(b)(4) do not require that States issue new provider agreements. States frequently use provider agreements that are general in nature but that bind the provider to adhere to the provider requirements stipulated in the State's regulations or manuals. It is not our intention to change, by this regulation, the mechanics by which States impose requirements upon their Medicaid providers.

States have flexibility to prescribe procedures for complying with additional Federal requirements relating to its provider agreement. A determination should be made by each State regarding whether revisions or new provider agreements are necessary, or whether the agreement is all-inclusive, that is, the provider agrees to comply with all additional Federal requirements, and no revisions are needed.

Enforcement Procedures

Comment: Some commenters requested further instructions on the statement in the preamble of the interim final rule that hospitals and hospices must inform HCFA in writing of the ''date they achieve compliance'' (57 FR 8195), while another believes this requirement is unnecessary. One commenter suggested that §§ 417.436(d) and 483.10 be amended to include an address and telephone number at which HCFA will receive non-compliance complaints.

Response: The process for hospitals and hospices to inform HCFA of the day they achieved compliance was set forth through instructions issued by HCFA in October, 1992. The reporting process is now complete. The purpose of this process was to provide us with evidence that hospitals and hospices were maintaining policies that would provide written information to adult individuals of their rights to accept or refuse medical or surgical treatment and to formulate an advance directive. These rights are subsequently referred to as the ''advance directive requirements''. This mechanism was designed so we would not need to conduct immediate on-site inspections of the nearly 8,000 hospitals and hospices to determine compliance with the advance directive requirements.

In addition, we note that to ensure that HHAs, SNFs and NFs are complying with the advance directives requirements, these entities will be assessed for compliance during the next routine on-site survey. The advance directive requirements are part of the resident rights requirements at § 483.10(b)(8) for SNFs and NFs and the patient rights condition of participation at § 484.10(c)(2)(ii) for HHAs.

Concerning where an individual can file a complaint for non-compliance, we have decided to follow the usual procedure and delegate the responsibility to receive complaints and initiate investigations to the State survey and certification agency under the authority of Regional Administrators. We have added new provisions at §§ 417.436(d)(3) and 489.102(a)(4) to require that providers and HMOs and CMPs must inform individuals that complaints concerning non-compliance with the advance directive requirements may be filed with the State survey and certification agency. This may be accomplished, for example, by posting a statement of an individual's rights under the advance directives requirements of the law and the name, address and telephone number of the State survey and certification agency to which the individual should file his or her complaint. In addition, we are amending § 483.10(b)(7)(iv) to require a facility to include in its written description of a resident's legal right a statement that the resident may file a complaint with the survey and certification agency concerning noncompliance with the advance directives requirements. Section 484.10(f) of the HHA patient rights condition of participation also has been amended to specify that the patient also has the right to use the home health hotline to lodge complaints concerning the implementation of the advance directive requirements. In addition, the Medicare Hotline (1–800–638–6833) is another avenue to register complaints.

Comment: One commenter asked how soon after a hospital adds a new unit or service would it have to report to HCFA regarding achieving compliance with the advance directive requirements.

Response: We are not requiring hospitals to notify HCFA concerning compliance with the advance directive requirements each time a new unit or service is added. However, any new unit or service that is added to a hospital would be expected to meet the advance directive requirements for all new admissions as soon as it began operation and would be monitored in accordance with the normal enforcement procedures, as outlined above.

Comment: One commenter suggested that we grant hospitals that are accredited by the Joint Committee on the Accreditation of Hospitals (JCAHO) deemed status for advance directive requirements now that the JCAHO has incorporated advance directives requirements into its standards. Another commenter questioned if HCFA will ask State departments of health to monitor compliance with the advance directive requirements within the context of the Medicare validation survey process.

Response: National organizations that have been granted recognition of their accrediting programs are required to provide reasonable assurance to HCFA that the providers that they accredit meet the Medicare conditions of participation. However, since the advance directives requirements are not part of the Medicare conditions of participation for hospitals, accredited hospitals are not deemed to meet this requirement based on an accreditation survey.

Instead, each hospital and hospice must comply with the advance directive requirements as part of its provider agreement with HCFA. As discussed above, each hospital (including any accredited by JCAHO or AOA) was required to inform HCFA, in writing, of the date that it achieved compliance with the advance directive requirements. As part of the compliance process, each hospital submitted an attestation statement signed and dated by its hospital administrator that informed HCFA of compliance. Compliance with the advance directive requirements is verified as part of the next routine on-site survey for hospices and non-accredited hospitals. For accredited hospitals, compliance is verified during any complaint investigation and at the time of validation surveys. This verification is a one-time event for both hospitals and hospices, unless a specific complaint is received about advance directives. All complaints about advance directives are investigated; failure to comply with the advance directives requirements is a cause for termination of a hospice's or hospital's provider agreement.

Comment: Two commenters suggested we extend the time period for the State agency to conduct an investigation to determine if a facility is in compliance with the advance directives provisions to the date when the provider agreement with HCFA is terminated. Currently, the time period for written notification of deficiencies is 15 days from the initial visit and the commenters are requesting that this be changed to 30 days. The commenters believe that 15 days is not sufficient time to permit adequate communication with all entities involved in many health care systems, particularly when providers are members of hospital chains, where information needs to be exchanged between corporate headquarters, attorneys, and the particular facility cited.

Response: Although we give providers 15 days' advance notice before termination of the provider agreement, the provider usually has 90 days to correct a deficiency, between the time of the survey and the effective date of termination. Furthermore, enforcement procedures for deficiencies in meeting the advance directives requirements are handled in the same manner as other types of deficiencies. Medicare operational guidelines establish procedures and timeframes that we believe allow a provider ample opportunity to make corrections and to exchange information related to the deficiencies before the effective date of the actual termination. The communication needs cited by the commenters are not unique to situations involving non-compliance with the advance directives provisions, and thus we do not believe that changes in our termination procedures are warranted.

Miscellaneous Issues

Comment: One commenter expressed concern with the applicability of the provider obligations contained in the advance directive requirements to independent personal care providers, as opposed to a home health agency, and the consequences of requiring individual personal care providers to comply with these requirements. The commenter asserted that independent personal care providers typically are semi-skilled workers who, in many instances, perform non-medical functions. The commenter believes that in many cases these individuals would not be able to comply with the advance directive requirements for providers. Therefore, the commenter requested that R.N. supervisors, rather than the personal care attendants, fulfill the requirements for personal care services. Furthermore, the commenter asserted that the obligations of the statute appear to apply only to providers and organizations that furnish ''medical care.'' Since independent personal care providers generally do not furnish medical care, they are not subject to the statute.

Response: Section 1902(a)(57) of the Act specifically requires that each State Medicaid program assure that all affected providers, including personal care providers, meet the requirements of section 1902(w) of the Act as well as all other Medicaid requirements. The statute does not prohibit a personal care provider from contracting with another entity to carry out the advance directive requirements, but personal care providers should enter into these contracts with the knowledge that they will still be legally responsible for ensuring that advance directive requirements are met. To clarify this point, we have revised § 489.102(b)(3)(ii) to specify that all providers, including personal care providers, are permitted to contract with another entity to furnish this information but are still legally responsible for ensuring that advance directive requirements are met.

Thus, a personal care provider may either perform the requirements of the advance directive provisions, or it may work with others to fulfill the requirements of this provision. If a personal care provider enters into a contract or other written agreement with another entity (for example, case manager, local home health agency, hospital discharge planner, or others) to satisfy the requirements of section 1902(w) of the Act, we suggest that such a written agreement specify that the person or entity is satisfying the requirements of section 1902(w) of the Act. Thus, the agreement should specify that the person or entity would (1) furnish written information (usually prepared by the State) to individuals receiving care regarding their rights under State law to make decisions concerning medical care; (2) furnish the providers written policies respecting the implementation of such rights (including any conscientious objections allowed by State law); (3) document in the individual's medical record whether or not the individual has executed an advance directive; (4) not discriminate against an individual based on whether or not the individual has executed an advance directive; (5) ensure compliance with State law; and (6) educate staff (if applicable) and community (which can be defined as the population served) on issues concerning advance directives.

Although the commenter's question centered on the applicability of the provider obligations for personal care providers, we have revised §§ 489.102(a)(1)(i), 417.436(d)(1)(i)(A) and 483.10(b)(8) to permit all providers to enter into agreements such as the one described above.

Comment: One commenter expressed confusion over what he believes to be an apparent conflict between the advance directive provisions of this regulation and the election procedures for Medicare hospice patients. Medicare-certified hospice programs are required to inform new patients at the time they elect hospice care of what types of care the hospice provides. At that point, the patient exercises a choice with respect to services that may include an acknowledgement that life sustaining treatment would be withheld.

Response: We do not believe that there is an inconsistency between the advance directives provisions of this regulation and the election procedures for Medicare hospice patients. In fact, we believe these requirements are entirely consistent with the intended exchange of views and information that takes place when an individual elects hospice care. Hospice patients may appropriately be asked if they have an advance directive even though their choice of hospice care reflects a preference for palliative rather than curative treatment. We rely upon the hospice to inform the patient fully at the time of the hospice election as to the nature of the care. The hospice, after being informed of the patient's choice, will inform the patient of its treatment plan, policies and whether the patient's advance directive may be implemented. As part of the process, the patient will be informed if the advance directive will not be honored because State law permits the facility to object to implementing an advance directive on the basis of conscience.

B. Comments Specific to Managed Care Plans

Scope

Comment: One commenter questioned whether the advance directive requirements apply to both risk-based and cost-reimbursed Medicare HMOs and CMPs.

Response: Section 1866(f)(1) of the Act specifies that a provider of services or prepaid or eligible organization (that is, a health maintenance organization (HMO), competitive medical plan (CMP) as defined in section 1876(b) of the Act, or a health care prepayment plan (HCPP) as defined in section 1833(a)(1)(A) of the Act) must maintain written policies and procedures concerning the right to accept or refuse medical or surgical treatment and to formulate an advance directives with respect to all adult individuals receiving medical care through the provider or organization. These requirements apply to both risk-based and cost-reimbursed Medicare HMOs and CMPs. In addition, organizations providing services to Medicaid enrollees, such as health insurance organizations, prepaid health plans and Medicaid HMOs, also must meet these requirements. The statute does not authorize exceptions for certain model types.

Advance Directives Information Provided by Managed Care Plans

Comment: Several commenters suggested that HMOs and CMPs be allowed to provide information

concerning an adult individual's right to accept or refuse medical or surgical treatment and to formulate an advance directive only to the subscriber of the plan, who would then share this information with his or her covered dependents. This would prevent multiple mailings of material to the same address.

Response: We concur with the commenter that HMOs and CMPs are permitted to provide information concerning advance directives only to the subscriber of the plan. Typically, HMOs and CMPs send enrollment packages to the subscriber who in turn shares the information with his or her dependents. All the information that a subscriber needs, including membership cards, evidence of coverage, and listings of participating providers are usually sent in this package. Sections 1866(f)(1) and 1902(w)(1) of the Act require that written materials concerning an individual's right to accept or refuse medical or surgical treatment and to formulate an advance directive be provided to all adult individuals receiving medical care by or through the provider or organization. However, since it is customary for subscribers to share membership material with adult dependents, we believe that permitting HMOs and CMPs to send advance directives material only to subscribers (who would then be instructed to share the material with adult dependents) would fulfill the statutory requirement. The membership material should indicate to subscribers that they are expected to share the advance directives information with adult dependents.

Comment: One commenter requested clarification as to what kind of documentation an HMO or CMP is required to keep to prove that written information regarding advance directives was provided to new enrollees (for example, a patient's signature acknowledging receipt).

Response: Section 1866(f)(2)(E) of the Act requires HMOs or CMPs to provide written information to adult individuals concerning their rights under State law to accept or refuse medical or surgical treatment and to formulate an advance directive to enrollees at the time of enrollment. Although we encourage recordkeeping actions such as a notation in the beneficiaries' medical record, we are not requiring that an HMO document that it has provided the material to each individual enrollee. Rather, we will verify compliance with this requirement by reviewing the materials provided to new enrollees and examining an HMO's or CMP's systems and procedures to ensure that it provides the materials timely.

Comment: A few commenters expressed concern over the meaning of ''at the time of enrollment.'' Many individuals join HMOs or CMPs through their employers. However, employers often do not relay enrollment information to health care plans until after the effective date of coverage, making the requirement impossible to meet. In addition, the requirement that information be provided at the time of enrollment could force health care plans to mail the advance directive information before other membership materials, such as membership cards and directories, creating unnecessary added costs.

Response: In accordance with section 1866(f)(1)(B) of the Act, § 417.436(d)(1)(ii) requires that an HMO or CMP provide written information concerning its policies that implement advance directives to adult individuals at the time of enrollment (57 FR 8198). In view of the comments we received on this issue, we recognize that it would be helpful to clarify how managed care plans may meet this requirement. For enrollees that join managed care plans as individuals, the meaning of ''at the time of enrollment'' is relatively straightforward, that is, as soon as possible after the application is received, but before the effective date of coverage. However, for individuals that join managed care plans through an employer group, we are clarifying that ''at the time of enrollment'' means at the time that the employer group enrolls the beneficiary into the plan. In such situations, the managed care plan may not be informed of the enrollment immediately; therefore, to implement the requirements of the statute, we believe it would be permissible for the employer group to provide, on behalf of the organization, information concerning an adult individual's right to accept or refuse medical or surgical treatment and to formulate an advance directive. In keeping with other provisions of this rule, the HMO or CMP may incorporate such information into the marketing material that the managed care plan supplies to employer groups so that the information is disseminated when the employer distributes other plan marketing materials to potential enrollees.

Comment: One commenter questioned whether ''at the time of enrollment'' referred not only to individuals' initial enrollments but also to individuals' annual re-enrollments.

Response: We believe that the intent of the legislation is to require that the written advance directives information be provided at the time of initial enrollment. Therefore, we are not requiring that written advance directives material be provided for individuals renewing their enrollments. We have revised § 417.436(d)(1)(ii) to clarify that this information needs to be provided only at the time of initial enrollment.

Comment: Several commenters requested clarification regarding whether a managed care plan's written policies on advance directives must provide detailed information regarding the advance directive policies of its contracting providers. Commenters believe that requiring a plan to disseminate information regarding the policies of its contracting providers would be overly burdensome and duplicative. These commenters believe that health care plans should be allowed to inform enrollees that each provider has its own policies and that enrollees may request more information from the individual provider.

Response: We believe that information regarding whether contracting providers will implement advance directives is an integral part of each managed care plan's advance directives policies. Without such information, enrollees will not be able to make informed decisions regarding advance directives. The interim final rule provided two options describing contracting providers' policies. The first option allows a managed care plan to develop a policy that embraces all of its providers' policies. The second option allows a managed care plan to simply note that differences among its providers policies exist, and that more information is available from the organization upon request. These options do not necessarily require detailed information regarding each provider's policies. For example, if all contracting providers implement all advance directives that meet State requirements, the plan could simply note this information. On the other hand, if one or more of the contracting providers have a more limited policy (for example, a hospital exercising a reservation of conscience), the plan may either (1) provide a written policy that states the restrictions these providers placed on advance directives or (2) note that some providers may object to implementing an advance directive, but that more information is available upon request. At a minimum, plans should have information available upon request as to which contracting institutions place limits on implementing advance directives.

Comment: One commenter believes that the discussion in the preamble to the interim final rule concerning the content and format of the written

information to be provided to each adult individual exceeded the provisions of section 1866(f) of the Act. (See 57 FR 8196.) Specifically, the commenter objected to our statement that the legally required elements of the written information would include a description of the provider's ''policies and procedures''. The commenter believes that the term ''policies and procedures'' overstates the provisions of section 1866(f) of the Act.

Response: We believe that the commenter has misinterpreted a parenthetical statement in the interim final rule that the summary notice would need to contain the legally required elements, including a description of the provider's policy and procedures. In accordance with section 1866(f) of the Act, §§ 417.436(d)(1)(i)(B) and 489.102(a)(1)(ii) specify that the written information provided to each adult individual include a description of ''the written policies'' of an organization or a provider concerning the organization's policies respecting the implementation of an individual's advance directive rights. The information provided to enrollees should be specific to the plan, and include information on the organization's written policies regarding the execution of a beneficiary's advance directive.

Comment: One commenter questioned whether the regulations require physicians that contract with HMOs to develop policies regarding advance directives or if physicians are required to comply with the HMO policy.

Response: The statute and our regulations do not address this issue. The individual physician's role and responsibilities will be determined by State law and the HMO's contracts and policy. For plans that operate in more than one State, the HMO should insure that contracting physicians follow the applicable statutes of the State or States in which they practice.

Comment: One commenter suggested that managed care plans should have to maintain written policies and procedures only for individuals for whom they provide care directly. Thus, plans that arrange for services, but do not provide them directly, would not have to develop policies.

Response: Under sections 1866(f)(1), 1902(a)(57), and 1902(w) of the Act, all managed care plans with Medicare or Medicaid contracts are required to maintain written policies concerning advance directives, with respect to all adult individuals receiving medical care by or through the organization. As noted above, the statute does not authorize exceptions for certain model types.

Comment: One commenter asserted that HMOs and CMPs should not be solely responsible for locating alternate providers if a provider will not honor an advance directive as a matter of conscience.

Response: In accordance with section 1866(f)(1)(B) of the Act, § 417.436(d)(1)(iii) requires that an HMO or CMP document in the medical record whether or not an individual has executed an advance directive. Section 417.436(d)(1)(iii) also specifies that HMOs and CMPs are not required to implement an advance directive if, as a matter of conscience, the provider cannot implement an advance directive and State law allows any health care provider to conscientiously object. However, neither the statute nor the regulations require an HMO or CMP to locate alternative providers when a provider chooses, as a matter of conscience, not to honor an individual's advance directive. We do not believe it is appropriate to require this. However, it is reasonable to expect that assistance would be provided for a transfer at the patient's request. We note that an HMO or CMP would be required to comply with any applicable State law to that effect.

Description of State Law

Comment: One commenter requested that we explicitly state that the requirement for managed care plans to provide information to their enrollees concerning an individual's rights under State law applies only to the law of the State in which the HMO or CMP provides services.

Response: We concur and have revised § 417.436(d)(1)(i)(A) to clarify that HMOs or CMPs are required to provide information that relates to the law of the State in which services are being provided. For plans that have multi-state provider networks, the information should reference the advance directive laws of all States in the service area.

Documentation in Individual Medical Records

Comment: Several commenters questioned who should be ultimately responsible for documenting in an enrollee's medical record whether or not the individual has executed an advance directive—the physician or physician group. Most of these commenters recommended that physicians that practice in HMOs or CMPs should be held responsible, and that the HMO or CMP should not have to ensure that these physicians document the medical record. Another commenter asserted that physicians should not be required to obtain advance directives information on behalf of HMOs or CMPs. This commenter believes that a HMO or CMP should be required to maintain its own advance directives records and relay the information to the physicians.

Response: Sections 1866(f)(1), 1902(a)(57) and 1902(w)(1) of the Act clearly specify that the advance directives requirements apply to ''providers and organizations''. Thus, we believe that an HMO or CMP is ultimately responsible for ensuring that the existence of an advance directive is documented in an enrollee's medical records. HMOs or CMPs may use any procedures they wish, consistent with State law, to ensure that this requirement is met. We do not believe it would be consistent with the intent of the statute to require any particular process. One possible process would be for the HMO or CMP to amend contracts with its physicians to require them to obtain the information. However, the HMO or CMP would still need to verify that its physicians document in the medical record whether or not an individual has executed an advance directive.

Comment: One commenter requested confirmation that HMOs or CMPs will not be out of compliance with the requirement to document the medical record if some enrollees never have a medical record because they never used medical services.

Response: We agree that if a medical record is not created, the requirement to document in the medical record whether or not an advance directive exists would not apply.

Comment: Several commenters stated that the requirement concerning the documentation of medical records should not be made applicable to individual practice associations (IPAs), network-model or group-model HMOs because these organizations characteristically do not generate or have access to patient medical records. Therefore, these organizations cannot fulfill the requirement that they document in the enrollee's medical record whether or not the individual has executed an advance directive. One commenter suggested that managed care plans, particularly IPAs, should be allowed to use a centralized recordkeeping system rather than the individual medical record to document whether or not the individual has executed an advance directive.

Response: Under sections 1866(f)(1)(B) and 1902(w)(1)(B) of the Act, all managed care organizations must document in the individual's medical record whether or not the individual has executed an advance

directive. Managed care plans may use a centralized recordkeeping system to maintain information on whether or not an individual has executed an advance directive. However, the use of a centralized recordkeeping system may not necessarily meet the requirement that managed care plans document in each enrollee's medical record whether or not the individual has executed an advance directive. If the central file is a medical record file, then the use of the centralized file would meet the requirement. If the central file is not a medical file (for example, it only contains enrollment and general policy information concerning advance directives), the managed care plan also would have to document in the medical record whether or not an individual has executed an advance directive. Again, the statute does not authorize exemptions for certain managed care plans due to their organizational structure.

Comment: Several commenters stated that clarification is needed regarding the reasonable steps a managed care plan must take to document in the member's record whether or not the member has executed an advance directive. Several commenters believed that enrollees should be responsible for notifying their health care plan as to whether they have executed an advance directive.

Response: As noted above, the statute requires that each enrollee's medical record contain documentation as to whether or not the enrollee has executed an advance directive. The interim final rule gives several examples of appropriate methods for obtaining the information needed to document medical records (57 FR 8197). For example, a managed care plan may modify its contracts with its primary care providers to require that the advance directive information be recorded when an enrollee's medical record is created. Alternatively, plans could request members to provide this information by mail. Whatever method the plan uses, it must obtain some response from the enrollee. If an enrollee refuses to disclose information regarding whether or not he or she has an advance directive, the managed care plan should record the enrollees refusal to answer.

Comment: One commenter asked if a managed care plan is required to contact patients and ask definitive questions concerning life-sustaining treatment.

Response: Section 417.436(d)(1)(iii) requires only that an HMO or CMP document in the medical record whether or not an enrollee has executed an advance directive. It does not require HMOs or CMPs to document the type of advance directive or ask specific questions regarding an enrollee's wishes for life-sustaining treatment. As we have noted earlier, an HMO or CMP would be required to comply with any applicable State law or other Federal requirement that may make it necessary to take additional steps such as those discussed by the commenter.

Comment: One commenter noted that the interim final rule is unclear as to whether or not the documentation must be done for all current enrollees as well as for all new enrollees.

Response: Section 4206(e)(2) of OBRA '90 specifies that for managed care plans, the advance directive provisions took effect on December 1, 1991. Therefore, documentation of the medical record is required only for new enrollees since that date.

Comment: One commenter expressed concern that managed care plans may face liability if enrollees change, cancel or execute new advance directives after the plan has documented the medical record, since the plan's information may not match the enrollees' wishes.

Response: Neither the statutory provisions nor the regulations concerning advance directives address the issue of liability in cases where the patient changes an advance directive. We would defer to State law for a decision on liability in this type of situation.

Sections 1866(f)(1)(B) and 1902(w)(1)(B) of the Act and implementing regulations require only that the managed care plan document whether or not the enrollee has executed an advance directive, not necessarily the contents of the advance directive. After the medical record is documented, we are not imposing further medical record documentation requirements on managed care plans in this rule. However, if an enrollee informed the plan that he or she had changed or cancelled an advance directive, we would expect a health plan to update the medical record information. In addition, the plan would be responsible for complying with applicable State and Federal requirements regarding the implementation of the new advance directive.

Time Required To Update Descriptions of State Law

Comment: Many managed care plans responded to our request for an estimate of an appropriate amount of time to update information on advance directives after changes in State law. The estimated time frames ranged from 30 days to 1 year after all approvals are obtained.

Response: We have thoroughly reviewed the many suggestions concerning timeframes for updating information on advance directives after changes in State law. Since information concerning advance directives is often included in marketing material, which is reviewed by federal or State regulators on an annual basis, we considered permitting plans to update their advance directive information on an annual basis. For some individuals, however, one of the factors that may contribute to the selection of a plan may be the individual's belief that the plan would honor its advance directive. We believe that distributing erroneous or outdated advance directive information to potential enrollees could unfairly influence their decision to enroll in a given plan. Therefore, as discussed above in section IV.A, managed care plans, like all other providers, are required to update their advance directives information as soon as possible but no later than 90 days after the effective date of a change in State law. Applying the 90-day time limit for plans to update changes in State laws will ensure that potential enrollees are provided with accurate information before enrolling in a plan while at the same time providing managed care plans with a reasonable amount of time in which to update their information. We have revised §§ 417.436(d)(1)(i)(A) and 434.28 to reflect this requirement.

We also have revised § 431.20(b) to require that revisions to the written descriptions of State law must be incorporated in such advance directive information and distributed to Medicaid providers, and HMOs and CMPs, as soon as possible, but no later than 60 days from the effective date of the change. We believe that this requirement is necessary to keep potential and existing enrollees informed about advance directive changes that could affect their care decisions. We note that, in addition to the use of marketing materials, plans may disseminate information about changes in State law concerning advance directive by using their community education programs and procedures, mailing information directly to all enrollees, or using any other method they believe may help further provide enrollees with updated information.

Ensuring Compliance With State Law

Comment: One commenter believes that organizations that contract with providers to provide health care, but do not provide health care directly, should not be required to ensure that providers comply with State law.

Response: Sections 1866(f)(1)(D) and 1902(w)(1)(D) of the Act and implementing regulations at § 417.436(d)(1)(i)(A) require that a prepaid or eligible organization maintain written policies and procedures that ensure compliance with the requirements of applicable State law regarding an adult individual's right under State law to accept or refuse medical or surgical treatment and to formulate an advance directive. As discussed above, there is no statutory basis under which we could exempt certain prepaid health care plans due to their organizational structure.

Comment: One commenter wanted general standards for managed care plans to use in ensuring compliance with State law.

Response: We note that plans have followed varying practices in complying with State law and we do not believe it is necessary or appropriate to prescribe standards to achieve this. State survey agencies would have the opportunity to ensure that plans have complied with State law concerning an adult individual's rights under State law to accept or refuse medical or surgical treatment and to formulate an advance directive.

Education of Staff and Community

Comment: One commenter requested that we define ''community'' for purposes of a managed care plan's community education responsibilities.

Response: Typically, the community served by a managed care plan is defined as the organization's service area.

Comment: One commenter suggested that HMOs and other health care providers be allowed to combine their community education programs to meet the community education requirement.

Response: In accordance with sections 1866(f)(1)(E) and 1902(w)(1)(E) of the Act, § 417.436(d)(1)(vii) specifically permits HMOs or CMPs to provide community education regarding advance directives either directly or in concert with other providers.

Comment: One commenter requested clarification on what constitutes community education in the case of managed care plans. Specifically, the commenter questioned whether including information on advance directives in the marketing brochure would be adequate.

Response: The meaning of community education is no different for managed care plans than it is for other Medicare and Medicaid providers. Plans can distribute educational materials to the public on advance directives, or they can provide seminars to the public. As mentioned earlier, the community education requirement does not need to be conducted through a community relations department, but information on advance directives must be conveyed to the community. A marketing brochure that contains the required information, and is distributed to the relevant community, may contribute to the statute's community education goals. Although we will evaluate the community education efforts of each managed care plan on an individual basis, generally we believe that activities such as seminars or direct community mailing, in combination with the distribution of marketing materials regarding advance directives, would be needed to satisfy the community education requirements. In summary, there are numerous methods for conducting community education, and we encourage creativity among the plans to reach as large a number of individuals as would be reasonable for their service area.

Comment: One commenter requested clarification regarding whether the educational materials must be approved by HCFA.

Response: Any marketing material that discusses the risk-based or cost-reimbursed HMO programs and is provided to Medicare beneficiaries must be approved by HCFA. Material that discusses advance directives, but does not discuss these programs, does not need to be approved. We do not approve marketing material for HCPPs and Medicaid organizations; however, these organizations must comply with applicable State requirements regarding approval for materials.

Comment: Two commenters questioned how HMOs and CMPs could obtain information on the existence of advance directives through the community education campaigns.

Response: The interim final rule stated that it may prove acceptable for a provider or organization to obtain information on the existence of advance directives through a community education campaign (57 FR 8197). The point of this statement was that we do not wish to limit the alternatives available to a provider or an HMO or CMP for obtaining this information. Thus, if an HMO finds it feasible to collect such information from some of its enrollees during a community education campaign, we would not object. The interim final rule discussed several other more likely methods for obtaining information about the existence of an advance directive, and we urge providers and organizations to use the approach that they find most effective.

Comment: One commenter requested clarification of the requirement for educating staff concerning advance directives.

Response: Sections 1866(f)(1)(E) and 1902(w)(1)(E) of the Act require that a provider or organization educate both staff and the community on issues concerning advance directives. In general, we would expect an organization to provide parallel educational information to its staff as it does for the community, that is, inform the public of their rights under State law to make decisions concerning the receipt of medical care by or through the provider or organization; the right to formulate advance directives; and the provider or organization's implementation policy concerning advance directives. Thus, a managed care plan is responsible for providing staff education to ensure that its advance directive policies and procedures are executed timely and correctly.

C. Comments on Appendices

Comment: Two commenters requested that in our public information document, ''Advance Directives—The Patient's Right to Decide'', which was published as Appendix I to the interim final rule, nurses should be specifically mentioned as one of the disciplines individuals may wish to talk to. Another commenter suggested that, under the question ''What Should I Do With My Advance Directive If I Choose to Have One?'', we should recommend that individuals review their advance directives at least annually and communicate any revisions to their physicians. In addition, several organizations submitted suggestions for additions to the organizations and publications listed as ''National Resources on Advance Directives'', which was published as Appendix II to the preamble of the interim final rule.

Response: We are not reprinting either of these two documents in this final rule. However, we have passed these suggestions on to HCFA's Office of Public Affairs, which is responsible for the development and distribution of this information. We note that the following organizations and publications were suggested by commenters for addition to the national resource list on advance directive issues:

''American Life League, Inc.'', P.O. Box 1350, Stafford, Virginia 22554, (703) 659–4171.

''Advance Directive Protocols and the Patient Self-Determination Act: A Resource Manual for the Development of Institutional Protocols.'' Choice in

Dying, 200 Varick Street, New York 10014.

''Patient Self-Determination Act of 1990, Implementation Issues.'' This document deals specifically with long-term care issues. American Association of Homes and Services for the Aging, 901 E. Street, N.W., Suite 500, Washington, D.C. 20004–2037.

V. Changes to Provisions of the Interim Final Rule

As discussed above in section IV of this preamble, we are making several changes to the regulations based on public comments. The specific revisions to the current advance directive regulations are as follows:

- We are revising §§ 417.436(d)(1)(i)(A), 483.10(b)(8), and 489.102(a)(1)(i) to clarify that providers and HMOs or CMPs are permitted to contract with other entities to furnish information concerning the advance directive requirements but are still legally responsible for ensuring that the statutory requirements are met.
- We are revising §§ 417.436(d)(1)(i)(A), 430.12(c)(1)(ii), 431.20(b), 434.28, and 489.102(a)(1)(i) to clarify our requirements when changes to State advance directive laws are enacted.

When changes to State laws are enacted, States are required under § 431.20(b) to provide revised copies of their descriptions of State law to Medicaid providers and HMOs and CMPs as soon as possible, but no later than 60 days from the effective date of the law. Within that same timeframe, States are required under § 430.12(c)(ii) to amend their State plan.

In turn, providers are required under § 489.102(a)(1)(i) to revise and disseminate the amended informational materials as soon as possible, but no later than 90 days from the effective date of the change in State law. Under §§ 417.436(d)(1)(i)(A)) and 434.28, HMOs and CMPs are required to revise their informational material as soon as possible, but no later than 90 days from the effective date of a change in State law.

- In §§ 417.436(d)(1)(i)(B) and 489.102(a)(1)(ii), we are adding a description of the minimum information that should be contained in a provider's, HMO's, or CMP's statement of limitation if an advance directive cannot be implemented because of an objection on the basis of conscience.
- We are revising §§ 417.436(d)(1)(ii), 483.10(b)(8), and 489.102(e) to clarify our policy on the provision of information about advance directives to family members or a surrogate when an individual is incapacitated. This change codifies in the regulations policy that was set forth in the preamble to the interim final rule.
- We are revising §§ 417.436(d)(1)(vii) and 489.102(a)(6) to clarify that a provider, HMO, or CMP is not required to disseminate during community education efforts the same material it gives to adult individuals at admission. Providers, HMOs and CMPs are not restricted to disseminating the same type of information in all settings; but at a minimum the community education materials should define what constitutes an advance directive, emphasizing that an advance directive is designed to enhance an incapacitated individual's control over medical treatment, and describe applicable State law concerning advance directives. In addition, we have added the requirement that a provider, HMO, or CMP must be able to document its community education efforts.
- We have added new § 417.436(d)(3) and revised § 489.102(a)(4) to require that providers and HMOs or CMPs must inform individuals that complaints concerning non-compliance with the advance directive requirements may be filed with the State survey and certification agency. We have also revised § 484.10(f) to specify that a patient has the right to use the home health hotline to lodge complaints concerning the implementation of the advance directives requirements.
- In §§ 484.10(c)(2)(ii) and 489.102(b)(3)(i), we are specifying that an HHA may furnish advance directive information to a patient at the time of the first home visit, as long as the information is furnished before care is provided. In addition, we are revising § 489.102(b)(3)(ii) to specify that providers of personal care services may furnish advance directive information to a patient at the time of the first home visit, as long as the information is furnished before care is provided. Personal care providers are permitted to contract with another entity to furnish advance directives information but are still legally responsible for ensuring that the advance directive requirements are met.

VI. Impact Statement

For final rules such as this, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a final rule will not have a significant impact on a substantial number of small entities. For purposes of the RFA, we do not consider States or individuals to be small entities.

In our March 6, 1992 interim final rule, we set forth regulations amending the Medicare and Medicaid regulations governing provider agreements and contracts by implementing certain changes made by OBRA '90. Those regulations establish requirements concerning advance directives for States, hospitals, nursing facilities, skilled nursing facilities, providers of home health care or personal care services, hospice programs and managed care plans such as HMOs and CMPs. In our analysis of the impact of the interim final rule, we concluded that performing the functions necessary to meet the requirements of the interim final rule, as required by the statute, would not cause a consequential expenditure of time and effort. Although we received several comments regarding our estimate of the information collection burden associated with these requirements (see section IV of this preamble), commenters generally did not object to our overall conclusion that the advance directives requirements set forth in the interim final rule would not cause a consequential increase in expenditure of time and effort.

This final rule largely confirms provisions of the interim final rule with comment. This final rule makes only minor changes to the current advance directives regulations, such as clarifying our policy on incapacitated individuals. None of the changes to the interim final rule has more than a marginal effect on the overall costs or benefits of the advance directive requirements.

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a final rule will have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that has fewer than 50 beds and is located outside a Metropolitan Statistical Area.

We have determined, and the Secretary certifies, that this final rule will not have a significant economic impact on the operations of a substantial number of small entities or small rural hospitals. Therefore, we have not prepared a regulatory flexibility analysis or an analysis of the impact of this rule on small rural hospitals.

This regulation was not reviewed by the Office of Management and Budget.

VII. Collection of Information Requirements

Sections 417.436(d)(iii), 417.801(b)(5), 431.107(b)(4), 434.28, 483.10(b)(8), 484.10(c)(2)(ii), and 489.102(a)(2) of the

interim final rule imposed information collection requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These information collections require hospitals, nursing facilities, skilled nursing facilities, providers of home health care or personal care services, hospice programs and HMOs and CMPs to document in the medical record whether or not an individual has executed an advanced directive. We received several comments on our estimates of the collection burdens involved. The comments and our responses are presented in detail in section IV.A of the preamble to this final rule. OMB has approved the information collection requirements set forth in our March 6, 1992 interim final rule through June 30, 1996 (Approval Number 0938–610).

List of Subjects

42 CFR Part 417

Administrative practice and procedure, Health maintenance organizations (HMOs), Medicare, Reporting and recordkeeping requirements.

42 CFR Part 430

Grants to States for Medical Assistance Programs.

42 CFR Part 431

Grant programs—health, Health facilities, Medicaid, Privacy, Reporting and recordkeeping requirements.

42 CFR Part 434

Grant programs—health, Health maintenance organizations (HMO), Medicaid, Reporting and recordkeeping requirements.

42 CFR Part 483

Grant programs—health, Health facilities, Health professions, Health records, Medicaid, Nursing homes, Nutrition, Reporting and recordkeeping requirements, Safety.

42 CFR Part 484

Administrative practice and procedure, Health facilities, Health professions, Home health agencies, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 489

Health facilities, Medicare, Reporting and recordkeeping requirements.

42 CFR chapter IV is amended as follows:

A. Part 417 is amended as set forth below:

PART 417—HEALTH MAINTENANCE ORGANIZATIONS, COMPETITIVE MEDICAL PLANS, AND HEALTH CARE PREPAYMENT PLANS

1. The authority citation for part 417 continues to read as follows:

Authority: Secs. 1102, 1833(a)(1)(A), 1861(s)(2)(H), 1871, 1874, and 1876 of the Social Security Act (42 U.S.C. 1302, 13951(a)(1)(A), 1395x(s)(2)(H), 1395hh, 1395kk, and 1395mm); sec. 114(c) of Pub. L. 97–248 (42 U.S.C. 1395mm note); secs. 1301 through 1318 of the Public Health Service Act (42 U.S.C. 216 and 300e through 300e–17), unless otherwise noted.

2. In § 417.436, the introductory text of paragraph (d)(1) is republished, paragraphs (d)(1)(i), (d)(1)(ii) and (d)(1)(vii) are revised, the introductory text of paragraph (d)(2) is republished, paragraph (d)(2)(ii) is revised, and paragraph (d)(3) is added to read as follows:

§ 417.436 Rules for enrollees.

* * * * *

(d) *Advance directives.* (1) An HMO or CMP must maintain written policies and procedures concerning advance directives, as defined in § 489.100 of this chapter, with respect to all adult individuals receiving medical care by or through the HMO or CMP and are required to:

(i) Provide written information to those individuals concerning—

(A) Their rights under the law of the State in which the organization furnishes services (whether statutory or recognized by the courts of the State) to make decisions concerning such medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate, at the individual's option, advance directives. Providers are permitted to contract with other entities to furnish this information but are still legally responsible for ensuring that the requirements of this section are met. Such information must reflect changes in State law as soon as possible, but no later than 90 days after the effective date of the State law; and

(B) The HMO's or CMP's written policies respecting the implementation of those rights, including a clear and precise statement of limitation if the HMO or CMP cannot implement an advance directive as a matter of conscience. At a minimum, this statement should:

(*1*) Clarify any differences between institution-wide conscience objections and those that may be raised by individual physicians;

(*2*) Identify the state legal authority permitting such objection; and

(*3*) Describe the range of medical conditions or procedures affected by the conscience objection.

(ii) Provide the information specified in paragraphs (d)(1)(i) of this section to each enrollee at the time of initial enrollment. If an enrollee is incapacitated at the time of initial enrollment and is unable to receive information (due to the incapacitating condition or a mental disorder) or articulate whether or not he or she has executed an advance directive, the HMO or CMP may give advance directive information to the enrollee's family or surrogate in the same manner that it issues other materials about policies and procedures to the family of the incapacitated enrollee or to a surrogate or other concerned persons in accordance with State law. The HMO or CMP is not relieved of its obligation to provide this information to the enrollee once he or she is no longer incapacitated or unable to receive such information. Follow-up procedures must be in place to ensure that the information is given to the individual directly at the appropriate time.

* * * * *

(vii) Provide for community education regarding advance directives that may include material required in paragraph (d)(1)(i)(A) of this section, either directly or in concert with other providers or entities. Separate community education materials may be developed and used, at the discretion of the HMO or CMP. The same written materials are not required for all settings, but the material should define what constitutes an advance directive, emphasizing that an advance directive is designed to enhance an incapacitated individual's control over medical treatment, and describe applicable State law concerning advance directives. An HMO or CMP must be able to document its community education efforts.

(2) The HMO or CMP—(i) * * *

(ii) Is not required to implement an advance directive if, as a matter of conscience, the HMO or CMP cannot implement an advance directive and State law allows any health care provider or any agent of such provider to conscientiously object.

(3) The HMO or CMP must inform individuals that complaints concerning non-compliance with the advance directive requirements may be filed with the State survey and certification agency.

B. Part 430 is amended as set forth below:

PART 430—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

1. The authority citation for part 430 continues to read as follows:

Authority: Sec. 1202 of the Social Security Act (42 U.S.C. 1302).

Subpart B—State Plans

2. In § 430.12, the introductory text of paragraph (c)(1) is republished, and paragraph (c)(1)(ii) is revised to read as follows:

§ 430.12 Submittal of State plan and plan amendments.

* * * * *

(c) *Plan amendments.* (1) The plan must provide that it will be amended whenever necessary to reflect—

* * * * *

(ii) Material changes in State law, organization, or policy, or in the State's operation of the Medicaid program. For changes related to advance directive requirements, amendments must be submitted as soon as possible, but no later than 60 days from the effective date of the change to State law concerning advance directives.

* * * * *

C. Part 431 is amended as set forth below:

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

1. The authority citation for part 431 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

Subpart A—Single State Agency

2. In § 431.20, paragraph (b) is revised to read as follows:

§ 431.20 Advance directives.

* * * * *

(b) A State Plan must provide that the State, acting through a State agency, association, or other private nonprofit entity, develop a written description of the State law (whether statutory or as recognized by the courts of the State) concerning advance directives, as defined in § 489.100 of this chapter, to be distributed by Medicaid providers and health maintenance organizations (as specified in section 1903(m)(1)(A) of the Act) in accordance with the requirements under part 489, subpart I of this chapter. Revisions to the written descriptions as a result of changes in State law must be incorporated in such descriptions and distributed as soon as possible, but no later than 60 days from the effective date of the change in State law, to Medicaid providers and health maintenance organizations.

D. Part 434 is amended as set forth below:

PART 434—CONTRACTS

1. The authority citation for part 434 continues to read as follows:

Authority: 1102 of the Social Security Act (42 U.S.C. 1302).

Subpart C—Contracts with HMOs and PHPs: Contract Requirements

2. In subpart C, § 434.28 is revised to read as follows:

§ 434.28 Advance Directives.

A risk comprehensive contract with an HMO must provide for compliance with the requirements of subpart I of part 489 of this chapter relating to maintaining written policies and procedures respecting advance directives. This requirement includes provisions to inform and distribute written information to adult individuals concerning policies on advance directives, including a description of applicable State law. Such information must reflect changes in State law as soon as possible, but no later than 90 days after the effective date of the State law.

E. Part 483 is amended as set forth below:

PART 483—REQUIREMENTS FOR STATES AND LONG TERM CARE FACILITIES

1. The authority citation for part 483 continues to read as follows:

Authority: Secs. 1102, 1819(a)–(d), 1861 (j) and (l), 1863, 1871, 1902(a)(28), 1905 (a),(c), and (d), and 1919(a)–(f) of the Social Security Act (U.S.C. 1302, 1395(i)(3)(a)–(f), 1395x (j) and (l), 1395z, 1395hh, 1396a(a)(28), 1396d (a),(c) and (d) and 1396r(a)–(f)), unless otherwise noted.

Subpart B—Requirements for Long-Term Care Facilities

2. In § 483.10, paragraph (b)(7) introductory text is republished, and paragraphs (b)(7)(iv) and (b)(8) are revised to read as follows:

§ 483.10 Resident rights.

* * * * *

(b) *Notice of rights and services.*

* * *

(7) The facility must furnish a written description of legal rights that includes— * * *

(iv) A statement that the resident may file a complaint with the State survey and certification agency concerning resident abuse, neglect, misappropriation of resident property in the facility, and non-compliance with the advance directives requirements.

(8) The facility must comply with the requirements specified in subpart I of part 489 of this chapter relating to maintaining written policies and procedures regarding advance directives. These requirements include provisions to inform and provide written information to all adult residents concerning the right to accept or refuse medical or surgical treatment and, at the individual's option, formulate an advance directive. This includes a written description of the facility's policies to implement advance directives and applicable State law. Facilities are permitted to contract with other entities to furnish this information but are still legally responsible for ensuring that the requirements of this section are met. If an adult individual is incapacitated at the time of admission and is unable to receive information (due to the incapacitating condition or a mental disorder) or articulate whether or not he or she has executed an advance directive, the facility may give advance directive information to the individual's family or surrogate in the same manner that it issues other materials about policies and procedures to the family of the incapacitated individual or to a surrogate or other concerned persons in accordance with State law. The facility is not relieved of its obligation to provide this information to the individual once he or she is no longer incapacitated or unable to receive such information. Follow-up procedures must be in place to provide the information to the individual directly at the appropriate time.

* * * * *

F. Part 484 is amended as set forth below:

PART 484—CONDITIONS OF PARTICIPATION: HOME HEALTH AGENCIES

1. The authority citation for part 484 continues to read as follows:

Authority: Sec. 1102, 1861, 1866(a), 1871, and 1891 of the Social Security Act (42 U.S.C. 1302, 1395x, 1395cc(a), 1395hh, and 1395bbb).

Subpart B—Administration

2. In § 484.10, paragraphs (c)(2)(ii) and (f) are revised to read as follows:

§ 484.10 Condition of participation: Patient rights.

* * * * *

(c) * * *

(2) * * *

(ii) The HHA complies with the requirements of subpart I of part 489 of this chapter relating to maintaining written policies and procedures

regarding advance directives. The HHA must inform and distribute written information to the patient, in advance, concerning its policies on advance directives, including a description of applicable State law. The HHA may furnish advance directives information to a patient at the time of the first home visit, as long as the information is furnished before care is provided.

* * * * *

(f) *Standard: Home health hotline.* The patient has the right to be advised of the availability of the toll-free HHA hotline in the State. When the agency accepts the patient for treatment or care, the HHA must advise the patient in writing of the telephone number of the home health hotline established by the State, the hours of its operation, and that the purpose of the hotline is to receive complaints or questions about local HHAs. The patient also has the right to use this hotline to lodge complaints concerning the implementation of the advance directives requirements.

G. Part 489 is amended as set forth below:

PART 489—PROVIDER AND SUPPLIER AGREEMENTS

1. The authority citation for part 489 continues to read as follows:

Authority: Secs. 1102, 1861, 1864, 1866, 1867, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x, 1395aa, 1395cc, 1395dd, and 1395hh) and sec. 602 (k) of Pub. L. 98–21 (42 U.S.C. 1395ww note).

Subpart I—Advance Directives

2. In § 489.102, paragraph (a) introductory text is republished, paragraphs (a)(1), (a)(2), (a)(4) and (a)(6) are revised, paragraph (b) introductory text is republished, paragraph (b)(3) is revised, paragraph (c) introductory text is republished, paragraph (c)(2) is revised, and paragraph (e) is added to read as follows:

§ 489.102 Requirements for providers.

(a) Hospitals, rural primary care hospitals, skilled nursing facilities, nursing facilities, home health agencies, providers of home health care (and for Medicaid purposes, providers of personal care services), and hospices must maintain written policies and procedures concerning advance directives with respect to all adult individuals receiving medical care by or through the provider and are required to:

(1) Provide written information to such individuals concerning—

(i) An individual's rights under State law (whether statutory or recognized by the courts of the State) to make decisions concerning such medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate, at the individual's option, advance directives. Providers are permitted to contract with other entities to furnish this information but are still legally responsible for ensuring that the requirements of this section are met. Providers are to update and disseminate amended information as soon as possible, but no later than 90 days from the effective date of the changes to State law; and

(ii) The written policies of the provider or organization respecting the implementation of such rights, including a clear and precise statement of limitation if the provider cannot implement an advance directive on the basis of conscience. At a minimum, a provider's statement of limitation should:

(A) Clarify any differences between institution-wide conscience objections and those that may be raised by individual physicians;

(B) Identify the state legal authority permitting such objection; and

(C) Describe the range of medical conditions or procedures affected by the conscience objection.

(2) Document in the individual's medical record whether or not the individual has executed an advance directive;

* * * * *

(4) Ensure compliance with requirements of State law (whether statutory or recognized by the courts of the State) regarding advance directives. The provider must inform individuals that complaints concerning the advance directive requirements may be filed with the State survey and certification agency;

* * * * *

(6) Provide for community education regarding issues concerning advance directives that may include material required in paragraph (a)(1) of this section, either directly or in concert with other providers and organizations. Separate community education materials may be developed and used, at the discretion of providers. The same written materials do not have to be provided in all settings, but the material should define what constitutes an advance directive, emphasizing that an advance directive is designed to enhance an incapacitated individual's control over medical treatment, and describe applicable State law concerning advance directives. A provider must be able to document its community education efforts.

(b) The information specified in paragraph (a) of this section is furnished: * * *

(3) (i) In the case of a home health agency, in advance of the individual coming under the care of the agency. The HHA may furnish advance directives information to a patient at the time of the first home visit, as long as the information is furnished before care is provided.

(ii) In the case of personal care services, in advance of the individual coming under the care of the personal care services provider. The personal care provider may furnish advance directives information to a patient at the time of the first home visit, as long as the information is furnished before care is provided.

* * * * *

(c) The providers listed in paragraph (a) of this section—* * *

(2) Are not required to implement an advance directive if, as a matter of conscience, the provider cannot implement an advance directive and State law allows any health care provider or any agent of such provider to conscientiously object.

* * * * *

(e) If an adult individual is incapacitated at the time of admission or at the start of care and is unable to receive information (due to the incapacitating conditions or a mental disorder) or articulate whether or not he or she has executed an advance directive, then the provider may give advance directive information to the individual's family or surrogate in the same manner that it issues other materials about policies and procedures to the family of the incapacitated individual or to a surrogate or other concerned persons in accordance with State law. The provider is not relieved of its obligation to provide this information to the individual once he or she is no longer incapacitated or unable to receive such information. Follow-up procedures must be in place to provide the information to the individual directly at the appropriate time.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; Program No. 93.774, Medicare—Supplementary Medical Insurance Program; and Program No. 93.778, Medical Assistance Program)

Dated: May 31, 1995.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 95–15550 Filed 6–26–95; 8:45 am]

BILLING CODE 4120–01–P

List of Subjects in 34 CFR Part 263

Grant programs-education, Indians-education, Reporting and recordkeeping requirements, Scholarships and fellowships.

(Catalog of Federal Domestic Assistance Numbers: 84.087 Indian Education—Fellowships for Indian Students; and 84.299 Indian Education—Special Programs)

Dated: June 9, 1995.

Thomas W. Payzant,

Assistant Secretary for Elementary and Secondary Education.

The Secretary amends Title 34 of the Code of Federal Regulations by revising Part 263 to read as follows:

PART 263—INDIAN FELLOWSHIP AND PROFESSIONAL DEVELOPMENT PROGRAMS

Subpart A—General

Sec.

Subpart B—How Does the Secretary Select Fellows?

Subpart C—What Conditions Must be Met by Fellows?

Subpart D—How are Fellowship Payments Made?

Authority: 20 U.S.C. 7832 and 7833, unless otherwise noted.

Subpart A—General

§ 263.1 What are the Indian Fellowship and Professional Development Programs?

(a) The Indian Fellowship Program provides fellowships to enable Indian students to pursue a course of study leading to—

(1) A postbaccalaureate degree in medicine, law, education, psychology, clinical psychology, or related field; or

(2) An undergraduate or postbaccalaureate degree in business administration, engineering, natural resources, or a related field.

(b) The Professional Development Program provides grants to eligible entities to—

(1) Increase the number of qualified Indian individuals in professions that serve Indian people;

(2) Provide training to qualified Indian individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

(3) Improve the skills of qualified Indian individuals who serve in the capacities described in paragraph (b)(2) of this section.

(c) The Indian Fellowship and Professional Development Programs require individuals who receive training under either program to—

(1) Perform work related to the training received under either program and that benefits Indian people, or to repay all or a prorated part of the assistance received under the program; and

(2) Report to the Secretary on the individual's compliance with the work requirement.

(Authority: 20 U.S.C. 7832 and 7833)

§ 263.2 Who is eligible to apply under the Indian Fellowship Program?

In order to be eligible for a fellowship an applicant must be—

(a) An Indian as defined in § 263.3 of this part;

(b) A United States citizen; and

(c)(1) Currently in attendance or have been accepted for admission as a full-time undergraduate or graduate student at an accredited institution of higher education in one of the fields listed in § 263.4 or a related field; and

(2) Recognized by the institution as a degree candidate.

(d) Eligible under 34 CFR 75.60.

(Authority: 20 U.S.C. 7833; 20 U.S.C. 1221e-3(a)(1) and 3474)

§ 263.3 What definitions apply to the Indian Fellowship and Professional Development Programs?

The following definitions apply to the Indian Fellowship and the Professional Development Programs:

Department means the U.S. Department of Education.

Dependent allowance means costs for the care of minor children who reside with the Fellow.

Expenses means tuition and required fees; required university health insurance; room, personal living expenses, and board at or near the institution; dependent allowance; instructional supplies; and reasonable travel and research costs associated with doctoral dissertation completion.

Fellow means the recipient of a Fellowship under the Indian Fellowship Program. The term ''Fellow'' also includes individual project participants under the Professional Development Program with regard to the payback provisions contained in sections 263.35–263.37 of this part.

Fellowship means an award under the Indian Fellowship Program.

Full course load means the number of credit hours that the institution requires of a full-time student.

Full-time student means a student who—

(1) Is a degree candidate;

(2) Carries a full course load; and

(3) Is not employed for more than 20 hours a week.

Good standing means a cumulative grade point average of at least 2.0 on a 4.0 grade point scale in which failing grades are computed as part of the average, or another appropriate standard established by the institution.

Graduate degree means a postbaccalaureate degree awarded by an institution of higher education beyond the undergraduate level.

Indian means an individual who is—

(1) A member of an Indian tribe or band, as membership is defined by the Indian tribe or band, including any tribe or band terminated since 1940, and any tribe or band recognized by the State in which the tribe or band resides; or

(2) A descendant, in the first or second degree, of an individual described in paragraph (1) of this definition; or

(3) Considered by the Secretary of the Interior to be an Indian for any purpose; or

(4) An Eskimo, Aleut, or other Alaska Native; or

(5) A member of an organized Indian group that received a grant under the Indian Education Act of 1988 as it was in effect October 19, 1994.

Institution of higher education means an accredited college or university within the United States leading to a baccalaureate or postbaccalaureate degree.

Payback means work-related service or cash reimbursement to the Department of Education for the training received under the Indian Fellowship or Professional Development Program.

Secretary means the Secretary of the Department of Education or an official

or employee of the Department acting for the Secretary under a delegation of authority.

Stipend means that portion of an award that is used for room and board and personal living expenses.

Undergraduate degree means a baccalaureate (bachelor's) degree awarded by an institution of higher education.

(Authority: 20 U.S.C. 7832 and 7833)

§ 263.4 What are the allowable fields of study in the Indian Fellowship Program?

(a) The following are allowable fields for an undergraduate degree under this program:

(1) Business Administration.

(2) Engineering.

(3) Natural Resources.

(b) The following are allowable fields for a graduate degree under this program:

(1) Medicine.

(2) Clinical Psychology.

(3) Law.

(4) Education.

(5) Psychology.

(6) Engineering.

(7) Natural Resources.

(8) Business Administration.

(c) The Secretary considers under paragraphs (a) and (b), on a case-by-case basis, the eligibility of applications for fellowships in related fields of study.

(Authority: 20 U.S.C. 7833)

§ 263.5 What does a fellowship award include?

(a) The Secretary awards a fellowship in an amount up to, but not more than, the expenses as defined in this part. The assistance provided by the program either—

(1) Fully finances a student's educational expenses; or

(2) Supplements other financial aid, including Federal funding, other than loans, for meeting educational expenses.

(b) The Secretary announces the expected maximum amounts for subsistence and other fellowship costs in the annual application notice published in the **Federal Register**.

(Authority: 20 U.S.C. 7833)

§ 263.6 What is the time period for a fellowship award?

(a) The Secretary awards a fellowship for a period of time not exceeding—

(1) Four academic years for an undergraduate or doctorate degree; and

(2) Two academic years for a master's degree.

(b) With prior approval from the Secretary, summer school may be allowed for eligible continuation students after completion of the first academic year.

(Authority: 20 U.S.C. 7833)

Subpart B—How Does the Secretary Select Fellows?

§ 263.20 What priority is given to certain applicants?

The Secretary awards not more than 10 percent of the fellowships, on a priority basis, to persons receiving training in guidance counseling with a specialty in the area of alcohol and substance abuse counseling and education.

(Authority: 20 U.S.C. 7833)

§ 263.21 What should the fellowship application contain?

In addition to the requirements specified in § 263.22 of this part, an applicant shall provide evidence that—

(a) The applicant is Indian as defined in § 263.3 of this part. Evidence may be in the form of—

(1)(i) A copy of the applicant's documentation of tribal enrollment or membership; or

(ii) A copy of the parent's or grandparent's documentation of tribal enrollment or membership, with supporting birth certificates or similar documents showing the applicant's descendance from the enrolled member;

(2) A letter of certification on official letterhead with the appropriate signature from a Federally or State recognized tribe or band; or

(3) A certificate of degree of Indian blood (CDIB) issued by an authorized representative of the Bureau of Indian Affairs or an official of a Federally recognized tribe.

(b)(1) The applicant is currently in attendance or has been accepted for admission as a full-time student at an accredited institution of higher education in one of the eligible fields of study listed in § 263.4; or

(2) For an applicant who has not yet been accepted for admission, documentation that the applicant is accepted by an accredited institution of higher education by a date to be specified by the Secretary.

(c)(1) The most current official high school and, if appropriate, undergraduate transcripts, for undergraduate applicants; or

(2) The most current official undergraduate and, if appropriate, graduate transcripts, for graduate applicants.

(d) The certification required under 34 CFR 75.61.

(Approved by the Office of Management and Budget under control number 1810–0020)

(Authority: 20 U.S.C. 7833; 20 U.S.C. 1221e-3(a)(1) and 3474).

§ 263.22 How does the Secretary evaluate applications?

(a) The Secretary reviews and ranks an application with other applications for the same field and related fields of study.

(b) The following criteria, with the total number of points available in parenthesis, are used to evaluate an application for a new fellowship award:

(1) *Official academic record (60 points).* The Secretary considers the quality of the applicant's academic record by reviewing—

(i) The applicant's grade point average and, if applicable, standardized test scores, such as the Scholastic Aptitude Test (SAT), American College Testing Assessment Program (ACT), Graduate Record Examination (GRE), Law School Admissions Test (LSAT), Medical College Admission Test (MCAT), and achievement tests.

(ii) The applicant's official transcripts and any grade reports.

(2) *Letters of recommendation (15 points).* The Secretary considers the applicant's potential for success in completing the academic requirements for his or her field of study by reviewing one letter of recommendation from each of the following categories—

(i) A school principal, teacher, academic or non-academic instructor or counselor, a college professor, or academic advisor;

(ii) A member of the community or civic leader who has observed the applicant in educational, social or civic activities; and

(iii) A tribal representative or an Indian community member.

(3) *Commitment essay (25 points).* The Secretary considers the applicant's commitment by reviewing an essay, written by the applicant, that addresses—

(i) The applicant's career goals and why the chosen field of study will benefit Indian people;

(ii) The applicant's life experiences, and personal and family expectations that will enhance the applicant's anticipated career accomplishments; and

(iii) The applicant's anticipated commitment to providing service to Indian people.

(Approved by the Office of Management and Budget under control number 1810–0020)

(Authority: 20 U.S.C. 7833)

Subpart C—What Conditions Must be Met by Fellows?

§ 263.30 What are the basic requirements of a Fellow?

A Fellow shall—

(a) Start school during the first semester of the award at the institution

named on the grant award document and complete at least one full academic term;

(b) Submit to the Secretary two copies of his or her official grade report at the close of each academic term, and upon completion of the training program, at that institution;

(c) Submit an annual continuation application, in the form and timeframes specified by the Secretary, to request funding for each remaining academic year approved under the initial application;

(d) Request a written leave of absence at least 30 days prior to withdrawal, unless in an emergency situation, from the Secretary for any interruption in his or her program of academic studies; and

(e) Sign an agreement, at the time of the award, with the Department to meet the provisions of the payback requirement.

(Approved by the Office of Management and Budget under control number 1810–0020)

(Authority: 20 U.S.C. 7833)

§ 263.31 What information must be submitted after a fellowship is awarded?

To verify further the accuracy of the information provided in the application, the applicant shall provide all information and documents as requested by the Secretary, including information on other financial aid sources for educational purposes. The applicant's failure to provide the requested information and documents invalidates the application and the Secretary will not consider it for funding.

(Approved by the Office of Management and Budget under control number 1810–0020)

(Authority: 20 U.S.C. 7833)

§ 263.32 What are the requirements for a leave of absence?

(a) The Secretary may approve a leave of absence, for a period not longer than one academic year, provided a Fellow has successfully completed at least one academic year.

(b) A written request for a leave of absence shall be submitted to the Secretary not less than 30 days prior to withdrawal or completion of a grading period, unless an emergency situation has occurred and the Secretary waives the prior notification requirement.

(c) The Secretary permits a leave of absence only if the institution certifies that the Fellow is eligible to resume his or her course of study at the end of the leave absence.

(d) The Secretary shall withdraw any remaining funds of the Fellow's award when a leave of absence has occurred prior to the end of an academic term.

(Approved by the Office of Management and Budget under control number 1810–0020)

(Authority: 20 U.S.C. 7833)

§ 263.33 What is required for continued funding under a fellowship?

(a) The Secretary reviews the status of each Fellow at the end of each year and continues support only if the Fellow—

(1) Has complied with requirements under this part;

(2) Has remained a full-time student in good standing in the field in which the fellowship was awarded; and

(3) Has submitted a noncompeting continuation application requesting additional support.

(b) A fellowship terminates when the Fellow receives the degree being sought or after the Fellow has received the fellowship for the maximum number of years allowed as defined in § 263.6 of this part, whichever comes first.

(Authority: 20 U.S.C. 7833)

§ 263.34 When is a fellowship discontinued?

(a) The Secretary may discontinue the fellowship, if the Fellow—

(1) Fails to comply with the provisions under this part, including failure to obtain an approved leave of absence under § 263.32, or with the terms and conditions of the fellowship award; or

(2) Fails to report any change in his or her academic status.

(b) The Secretary will discontinue a fellowship only after providing reasonable notice and an opportunity for the Fellow to rebut, in writing or in an informal meeting with the responsible official in the Department of Education, the basis for the decision.

(Authority: 20 U.S.C. 7833)

§ 263.35 What are the payback requirements?

(a) Individuals receiving assistance under the Indian Fellowship Program or the Professional Development Program are required to—

(1) Perform work related to the training received and that benefits Indian people; or

(2) Repay all or a prorated part of the assistance received.

(b) The period of time required for a work-related payback is equivalent to the total period of time for which training was actually received under the Indian Fellowship Program or Professional Development Program.

(c) The cash payback required shall be equivalent to the total amount of funds received and expended for training received under either of these programs and may be prorated based on any approved work-related service the participant performs.

(Approved by the Office of Management and Budget under control number 1810–0020)

(Authority: 20 U.S.C. 7832 and 7833)

§ 263.36 When does payback begin?

(a) For all fellows who complete their training under the Indian Fellowship Program or Professional Development Program, except for medical degree and doctoral degree candidates, payback shall begin within six months from the date of completion of the training.

(1) For fellows in a doctoral degree program requiring a dissertation, payback shall begin not later than two years after the program's academic course work has been completed or the institution determines the student is no longer eligible to participate in the training program, whichever occurs first.

(i) After academic course work has been completed, fellows in doctoral degree programs shall submit an annual written report to the Secretary on the status of the dissertation.

(ii) Fellows will provide written notification to the Secretary, within 30 days, of completion of the dissertation and the participant's plans for completing a work-related or cash payback.

(2) For fellows in a doctoral degree program with clinical or internship requirements, payback shall begin within 6 months after the clinical or internship requirements have been met or the institution determines the student is no longer eligible to participate in the training program, whichever occurs first.

(i) After academic course work has been completed, fellows in a doctoral degree program with clinical or internship requirements shall submit an annual written report to the Secretary on the status of completion of the clinical or internship requirements.

(ii) Fellows will provide written notification to the Secretary, within 30 days, of completion of the clinical or internship requirements and the participant's plans for completing a work-related or cash payback.

(3) For fellows in a medical degree program, payback shall begin six months from the date that all residency requirements of the program have been met or the institution determines the student is no longer eligible to participate in the training program, whichever occurs first.

(i) After academic course work has been completed, fellows in a medical degree program shall submit an annual written report to the Secretary on the status of completion of the residency requirements of the program.

(ii) Fellows will provide written notification to the Secretary, within 30 days, of completion of the residency requirements and the participant's plans for completing a work-related or cash payback.

(b) For fellows who do not complete their training under the Indian Fellowship Program or Professional Development Program, payback shall begin within six months from the date the Fellow leaves the Indian Fellowship or Professional Development Program, unless he or she continues as a full-time student without interruption, in a program leading to a degree in an accredited institution of higher education.

(1) If the Fellow leaves the Indian Fellowship Program or Professional Development Program, but plans to continue his or her education as a full-time student, the Secretary may defer the payback requirement until the participant has completed his or her educational program. Written requests for deferment shall be submitted to the Secretary within 30 days of leaving the Indian Fellowship Program or the Professional Development Program and shall provide the following information—

(i) The name of the accredited institution the student will be attending;

(ii) A copy of the letter of admission from the institution;

(iii) The degree being sought; and

(iv) The projected date of completion.

(2) After approval by the Secretary for deferment of the payback provision on the basis of continuing as a full-time student, former fellows are required to submit to the Secretary a status report from an academic advisor or other authorized representative of the institution of higher education, showing verification of enrollment and status, after every grading period.

(Approved by the Office of Management and Budget under control number 1810–0020)

(Authority: 20 U.S.C. 7832 and 7833)

§ 263.37 What are the payback reporting requirements?

(a) *Written notice.* Participants shall submit to the Secretary, within 30 days of completion of their training program, a written notice of intent to complete a work-related or cash payback, or to continue in a degree program as a full-time student.

(b) *Work-related payback.* If the participant proposes a work-related payback, the written notice of intent shall include information explaining how the work-related service is related to the training received and benefits Indian people.

(1) For work-related service, the Secretary shall review each participant's payback plan to determine if the work-related service is related to the training received and benefits Indian people. The Secretary approves the payback plan if a determination is made that the work-related service to be performed is related to the training received and benefits Indian people, meets all applicable statutory and regulatory requirements, and is otherwise appropriate.

(2) The payback plan for work-related service shall identify where, when, the type of service, and for whom the work will be performed.

(3) A participant shall notify the Secretary in writing of any change in the work-related service being performed within 30 days of such change.

(4) For work-related payback, individuals shall submit a status report every six months beginning from the date the work-related service is to begin. The reports shall include a certification from the participant's employer that the service or services have been performed without interruption.

(4) Upon written request, and if appropriate, the Secretary may extend the period for completing a work-related payback by a total of 18 months.

(5) For participants that initiate, but cannot complete, a work-related payback, the payback reverts to a cash payback.

(c) *Cash payback.* If a cash payback is to be made, the Department will contact the participant to establish an appropriate schedule for payments.

(Approved by the Office of Management and Budget under control number 1810–0020)

(Authority: 20 U.S.C. 7832 and 7833)

Subpart D—How are Fellowship Payments Made?

§ 263.40 How are payments made?

(a) Fellowship payments are made directly to the institution of higher education where a Fellow is enrolled, with stipends provided to the Fellow in installments by the institution. No fewer than two installments per academic year may be made.

(b) If a Fellow transfers to another institution, the fellowship may also be transferred provided the Fellow maintains basic eligibility for the award.

(c) A Fellow who officially or unofficially withdraws or is expelled from an institution before completion of a term shall refund a prorated portion of the stipends received, as determined by the Secretary. The Secretary will require the institution to return any unexpended funds.

(Authority: 20 U.S.C. 7833)

[FR Doc. 95–15655 Filed 6–26–95; 8:45 am]

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Federal Register

Tuesday
June 27, 1995

Part III

Department of Education

34 CFR Part 263

Indian Fellowship and Professional Development Programs; Final Rule and New Awards Applications for FY 1995; Notice

DEPARTMENT OF EDUCATION

RIN 1810–AA79

34 CFR Part 263

Indian Fellowship and Professional Development Programs

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations that govern the competition of new fiscal year (FY) 1995 grants for the Indian Fellowship Program. This program is authorized under Title IX of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the Improving America's Schools Act of 1994, enacted October 20, 1994. These regulations identify eligible applicants for the program and the specific application and other program requirements that must be met in order to be considered for funding. These regulations also provide the requirements for the new payback provisions that apply to both the Indian Fellowship Program and the Professional Development Program. These regulations will govern the grant application process for new FY 1995 awards for the Indian Fellowship Program. In addition, the new payback provisions apply to the FY 1995 Professional Development Program.

EFFECTIVE DATE: These regulations take effect July 27, 1995.

FOR FURTHER INFORMATION CONTACT: Cathie Martin. Telephone: (202) 260–1683. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: On October 20, 1994, the Professional Development Program and the Indian Fellowship Program were substantially revised and recodified as, respectively, sections 9122 and 9123 of Subpart 2 of Part A of Title IX of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 103–382. These regulations identify eligible applicants for the Indian Fellowship program and address the specific program requirements, including application requirements and requirements concerning the new payback provisions that apply to the Indian Fellowship Program, that must be met in order to be considered for funding.

In addition, certain of these regulations govern the Professional Development Program (Section 263.3 *Definitions,* and sections 263.1(b)–(c) and 263.35–263.37, concerning the new payback provisions that also apply to this program).

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Department of Education to offer interested parties the opportunity to comment on proposed regulations. However, in order to make timely grant awards in fiscal year (FY) 1995, the Assistant Secretary, in accordance with section 437(d)(1) of the General Education Provisions Act, has decided to issue these final regulations, which will apply only to the FY 1995 grant competitions in the Indian Fellowship and Professional Development Programs. These regulations are being published as final regulations in their entirety (rather than amending portions of the existing regulations) for the convenience of the applicants in these competitive grant programs. In addition, certain provisions of these regulations govern the FY 1995 Professional Development Program.

The Assistant Secretary will publish, later this year, a notice of proposed rulemaking (NPRM) for these programs and will offer interested parties the opportunity to comment. After comments are considered, another final rule will be published that will govern the grant competitions for FY 1996 and succeeding fiscal years. In developing the NPRM, the Assistant Secretary is interested in receiving suggestions for improving these regulations. Please send your suggestions to Cathie Martin, Office of Indian Education, U.S. Department of Education, 600 Independence Avenue, SW, Portals Building, Room 4300, Washington, D.C. 20202–6335.

Executive Order 12866

These regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with these regulations are those resulting from statutory requirements and those determined by the Secretary to be necessary for administering this program effectively and efficiently. Burdens specifically associated with information collection requirements, if any, are identified and explained elsewhere in this preamble under the heading Paperwork Reduction Act of 1980.

In assessing the potential costs and benefits—both quantitative and qualitative—of these regulations, the Secretary has determined that the benefits of the regulations justify the costs.

Assessment of Educational Impact

Based on the Department's review, the Secretary has determined that these regulations do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 263

Grant programs-education, Indians-education, Reporting and recordkeeping requirements, Scholarships and fellowships.

(Catalog of Federal Domestic Assistance Numbers: 84.087 Indian Education—Fellowships for Indian Students; and 84.299 Indian Education—Special Programs)

Dated: June 9, 1995.

Thomas W. Payzant,

Assistant Secretary for Elementary and Secondary Education.

The Secretary amends Title 34 of the Code of Federal Regulations by revising Part 263 to read as follows:

PART 263—INDIAN FELLOWSHIP AND PROFESSIONAL DEVELOPMENT PROGRAMS

Subpart A—General

Sec.

Subpart B—How Does the Secretary Select Fellows?

Subpart C—What Conditions Must be Met by Fellows?

Authority: 20 U.S.C. 7832 and 7833, unless otherwise noted.

Subpart A—General

§ 263.1 What are the Indian Fellowship and Professional Development Programs?

(a) The Indian Fellowship Program provides fellowships to enable Indian students to pursue a course of study leading to—

(1) A postbaccalaureate degree in medicine, law, education, psychology, clinical psychology, or related field; or

(2) An undergraduate or postbaccalaureate degree in business administration, engineering, natural resources, or a related field.

(b) The Professional Development Program provides grants to eligible entities to—

(1) Increase the number of qualified Indian individuals in professions that serve Indian people;

(2) Provide training to qualified Indian individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

(3) Improve the skills of qualified Indian individuals who serve in the capacities described in paragraph (b)(2) of this section.

(c) The Indian Fellowship and Professional Development Programs require individuals who receive training under either program to—

(1) Perform work related to the training received under either program and that benefits Indian people, or to repay all or a prorated part of the assistance received under the program; and

(2) Report to the Secretary on the individual's compliance with the work requirement.

(Authority: 20 U.S.C. 7832 and 7833)

§ 263.2 Who is eligible to apply under the Indian Fellowship Program?

In order to be eligible for a fellowship an applicant must be—

(a) An Indian as defined in § 263.3 of this part;

(b) A United States citizen; and

(c)(1) Currently in attendance or have been accepted for admission as a full-time undergraduate or graduate student at an accredited institution of higher education in one of the fields listed in § 263.4 or a related field; and

(2) Recognized by the institution as a degree candidate.

(d) Eligible under 34 CFR 75.60.

(Authority: 20 U.S.C. 7833; 20 U.S.C. 1221e-3(a)(1) and 3474)

§ 263.3 What definitions apply to the Indian Fellowship and Professional Development Programs?

The following definitions apply to the Indian Fellowship and the Professional Development Programs:

Department means the U.S. Department of Education.

Dependent allowance means costs for the care of minor children who reside with the Fellow.

Expenses means tuition and required fees; required university health insurance; room, personal living expenses, and board at or near the institution; dependent allowance; instructional supplies; and reasonable travel and research costs associated with doctoral dissertation completion.

Fellow means the recipient of a Fellowship under the Indian Fellowship Program. The term ''Fellow'' also includes individual project participants under the Professional Development Program with regard to the payback provisions contained in sections 263.35–263.37 of this part.

Fellowship means an award under the Indian Fellowship Program.

Full course load means the number of credit hours that the institution requires of a full-time student.

Full-time student means a student who—

(1) Is a degree candidate;

(2) Carries a full course load; and

(3) Is not employed for more than 20 hours a week.

Good standing means a cumulative grade point average of at least 2.0 on a 4.0 grade point scale in which failing grades are computed as part of the average, or another appropriate standard established by the institution.

Graduate degree means a postbaccalaureate degree awarded by an institution of higher education beyond the undergraduate level.

Indian means an individual who is—

(1) A member of an Indian tribe or band, as membership is defined by the Indian tribe or band, including any tribe or band terminated since 1940, and any tribe or band recognized by the State in which the tribe or band resides; or

(2) A descendant, in the first or second degree, of an individual described in paragraph (1) of this definition; or

(3) Considered by the Secretary of the Interior to be an Indian for any purpose; or

(4) An Eskimo, Aleut, or other Alaska Native; or

(5) A member of an organized Indian group that received a grant under the Indian Education Act of 1988 as it was in effect October 19, 1994.

Institution of higher education means an accredited college or university within the United States leading to a baccalaureate or postbaccalaureate degree.

Payback means work-related service or cash reimbursement to the Department of Education for the training received under the Indian Fellowship or Professional Development Program.

Secretary means the Secretary of the Department of Education or an official or employee of the Department acting for the Secretary under a delegation of authority.

Stipend means that portion of an award that is used for room and board and personal living expenses.

Undergraduate degree means a baccalaureate (bachelor's) degree awarded by an institution of higher education.

(Authority: 20 U.S.C. 7832 and 7833)

§ 263.4 What are the allowable fields of study in the Indian Fellowship Program?

(a) The following are allowable fields for an undergraduate degree under this program:

(1) Business Administration.
(2) Engineering.
(3) Natural Resources.

(b) The following are allowable fields for a graduate degree under this program:

(1) Medicine.
(2) Clinical Psychology.
(3) Law.
(4) Education.
(5) Psychology.
(6) Engineering.
(7) Natural Resources.
(8) Business Administration.

(c) The Secretary considers under paragraphs (a) and (b), on a case-by-case basis, the eligibility of applications for fellowships in related fields of study.

(Authority: 20 U.S.C. 7833)

§ 263.5 What does a fellowship award include?

(a) The Secretary awards a fellowship in an amount up to, but not more than, the expenses as defined in this part. The assistance provided by the program either—

(1) Fully finances a student's educational expenses; or

(2) Supplements other financial aid, including Federal funding, other than loans, for meeting educational expenses.

(b) The Secretary announces the expected maximum amounts for subsistence and other fellowship costs in the annual application notice published in the **Federal Register**.

(Authority: 20 U.S.C. 7833)

§ 263.6 What is the time period for a fellowship award?

(a) The Secretary awards a fellowship for a period of time not exceeding—

(1) Four academic years for an undergraduate or doctorate degree; and

(2) Two academic years for a master's degree.

(b) With prior approval from the Secretary, summer school may be allowed for eligible continuation students after completion of the first academic year.

(Authority: 20 U.S.C. 7833)

Subpart B—How Does the Secretary Select Fellows?

§ 263.20 What priority is given to certain applicants?

The Secretary awards not more than 10 percent of the fellowships, on a priority basis, to persons receiving training in guidance counseling with a specialty in the area of alcohol and substance abuse counseling and education.

(Authority: 20 U.S.C. 7833)

§ 263.21 What should the fellowship application contain?

In addition to the requirements specified in § 263.22 of this part, an applicant shall provide evidence that—

(a) The applicant is Indian as defined in § 263.3 of this part. Evidence may be in the form of—

(1)(i) A copy of the applicant's documentation of tribal enrollment or membership; or

(ii) A copy of the parent's or grandparent's documentation of tribal enrollment or membership, with supporting birth certificates or similar documents showing the applicant's descendance from the enrolled member;

(2) A letter of certification on official letterhead with the appropriate signature from a Federally or State recognized tribe or band; or

(3) A certificate of degree of Indian blood (CDIB) issued by an authorized representative of the Bureau of Indian Affairs or an official of a Federally recognized tribe.

(b)(1) The applicant is currently in attendance or has been accepted for admission as a full-time student at an accredited institution of higher education in one of the eligible fields of study listed in § 263.4; or

(2) For an applicant who has not yet been accepted for admission, documentation that the applicant is accepted by an accredited institution of higher education by a date to be specified by the Secretary.

(c)(1) The most current official high school and, if appropriate, undergraduate transcripts, for undergraduate applicants; or

(2) The most current official undergraduate and, if appropriate, graduate transcripts, for graduate applicants.

(d) The certification required under 34 CFR 75.61.

(Approved by the Office of Management and Budget under control number 1810–0020)

(Authority: 20 U.S.C. 7833; 20 U.S.C. 1221e-3(a)(1) and 3474).

§ 263.22 How does the Secretary evaluate applications?

(a) The Secretary reviews and ranks an application with other applications for the same field and related fields of study.

(b) The following criteria, with the total number of points available in parenthesis, are used to evaluate an application for a new fellowship award:

(1) *Official academic record (60 points).* The Secretary considers the quality of the applicant's academic record by reviewing—

(i) The applicant's grade point average and, if applicable, standardized test scores, such as the Scholastic Aptitude Test (SAT), American College Testing Assessment Program (ACT), Graduate Record Examination (GRE), Law School Admissions Test (LSAT), Medical College Admission Test (MCAT), and achievement tests.

(ii) The applicant's official transcripts and any grade reports.

(2) *Letters of recommendation (15 points).* The Secretary considers the applicant's potential for success in completing the academic requirements for his or her field of study by reviewing one letter of recommendation from each of the following categories—

(i) A school principal, teacher, academic or non-academic instructor or counselor, a college professor, or academic advisor;

(ii) A member of the community or civic leader who has observed the applicant in educational, social or civic activities; and

(iii) A tribal representative or an Indian community member.

(3) *Commitment essay (25 points).* The Secretary considers the applicant's commitment by reviewing an essay, written by the applicant, that addresses—

(i) The applicant's career goals and why the chosen field of study will benefit Indian people;

(ii) The applicant's life experiences, and personal and family expectations that will enhance the applicant's anticipated career accomplishments; and

(iii) The applicant's anticipated commitment to providing service to Indian people.

(Approved by the Office of Management and Budget under control number 1810–0020)

(Authority: 20 U.S.C. 7833)

Subpart C—What Conditions Must be Met by Fellows?

§ 263.30 What are the basic requirements of a Fellow?

A Fellow shall—

(a) Start school during the first semester of the award at the institution named on the grant award document and complete at least one full academic term;

(b) Submit to the Secretary two copies of his or her official grade report at the close of each academic term, and upon completion of the training program, at that institution;

(c) Submit an annual continuation application, in the form and timeframes specified by the Secretary, to request funding for each remaining academic year approved under the initial application;

(d) Request a written leave of absence at least 30 days prior to withdrawal, unless in an emergency situation, from the Secretary for any interruption in his or her program of academic studies; and

(e) Sign an agreement, at the time of the award, with the Department to meet the provisions of the payback requirement.

(Approved by the Office of Management and Budget under control number 1810–0020)

(Authority: 20 U.S.C. 7833)

§ 263.31 What information must be submitted after a fellowship is awarded?

To verify further the accuracy of the information provided in the application, the applicant shall provide all information and documents as requested by the Secretary, including information on other financial aid sources for educational purposes. The applicant's failure to provide the requested information and documents invalidates the application and the Secretary will not consider it for funding.

(Approved by the Office of Management and Budget under control number 1810–0020)

(Authority: 20 U.S.C. 7833)

§ 263.32 What are the requirements for a leave of absence?

(a) The Secretary may approve a leave of absence, for a period not longer than one academic year, provided a Fellow has successfully completed at least one academic year.

(b) A written request for a leave of absence shall be submitted to the

Secretary not less than 30 days prior to withdrawal or completion of a grading period, unless an emergency situation has occurred and the Secretary waives the prior notification requirement.

(c) The Secretary permits a leave of absence only if the institution certifies that the Fellow is eligible to resume his or her course of study at the end of the leave absence.

(d) The Secretary shall withdraw any remaining funds of the Fellow's award when a leave of absence has occurred prior to the end of an academic term.

(Approved by the Office of Management and Budget under control number 1810–0020)

(Authority: 20 U.S.C. 7833)

§ 263.33 What is required for continued funding under a fellowship?

(a) The Secretary reviews the status of each Fellow at the end of each year and continues support only if the Fellow—

(1) Has complied with requirements under this part;

(2) Has remained a full-time student in good standing in the field in which the fellowship was awarded; and

(3) Has submitted a noncompeting continuation application requesting additional support.

(b) A fellowship terminates when the Fellow receives the degree being sought or after the Fellow has received the fellowship for the maximum number of years allowed as defined in § 263.6 of this part, whichever comes first.

(Authority: 20 U.S.C. 7833)

§ 263.34 When is a fellowship discontinued?

(a) The Secretary may discontinue the fellowship, if the Fellow—

(1) Fails to comply with the provisions under this part, including failure to obtain an approved leave of absence under § 263.32, or with the terms and conditions of the fellowship award; or

(2) Fails to report any change in his or her academic status.

(b) The Secretary will discontinue a fellowship only after providing reasonable notice and an opportunity for the Fellow to rebut, in writing or in an informal meeting with the responsible official in the Department of Education, the basis for the decision.

(Authority: 20 U.S.C. 7833)

§ 263.35 What are the payback requirements?

(a) Individuals receiving assistance under the Indian Fellowship Program or the Professional Development Program are required to—

(1) Perform work related to the training received and that benefits Indian people; or

(2) Repay all or a prorated part of the assistance received.

(b) The period of time required for a work-related payback is equivalent to the total period of time for which training was actually received under the Indian Fellowship Program or Professional Development Program.

(c) The cash payback required shall be equivalent to the total amount of funds received and expended for training received under either of these programs and may be prorated based on any approved work-related service the participant performs.

(Approved by the Office of Management and Budget under control number 1810–0020)

(Authority: 20 U.S.C. 7832 and 7833)

§ 263.36 When does payback begin?

(a) For all fellows who complete their training under the Indian Fellowship Program or Professional Development Program, except for medical degree and doctoral degree candidates, payback shall begin within six months from the date of completion of the training.

(1) For fellows in a doctoral degree program requiring a dissertation, payback shall begin not later than two years after the program's academic course work has been completed or the institution determines the student is no longer eligible to participate in the training program, whichever occurs first.

(i) After academic course work has been completed, fellows in doctoral degree programs shall submit an annual written report to the Secretary on the status of the dissertation.

(ii) Fellows will provide written notification to the Secretary, within 30 days, of completion of the dissertation and the participant's plans for completing a work-related or cash payback.

(2) For fellows in a doctoral degree program with clinical or internship requirements, payback shall begin within 6 months after the clinical or internship requirements have been met or the institution determines the student is no longer eligible to participate in the training program, whichever occurs first.

(i) After academic course work has been completed, fellows in a doctoral degree program with clinical or internship requirements shall submit an annual written report to the Secretary on the status of completion of the clinical or internship requirements.

(ii) Fellows will provide written notification to the Secretary, within 30 days, of completion of the clinical or internship requirements and the participant's plans for completing a work-related or cash payback.

(3) For fellows in a medical degree program, payback shall begin six months from the date that all residency requirements of the program have been met or the institution determines the student is no longer eligible to participate in the training program, whichever occurs first.

(i) After academic course work has been completed, fellows in a medical degree program shall submit an annual written report to the Secretary on the status of completion of the residency requirements of the program.

(ii) Fellows will provide written notification to the Secretary, within 30 days, of completion of the residency requirements and the participant's plans for completing a work-related or cash payback.

(b) For fellows who do not complete their training under the Indian Fellowship Program or Professional Development Program, payback shall begin within six months from the date the Fellow leaves the Indian Fellowship or Professional Development Program, unless he or she continues as a full-time student without interruption, in a program leading to a degree in an accredited institution of higher education.

(1) If the Fellow leaves the Indian Fellowship Program or Professional Development Program, but plans to continue his or her education as a full-time student, the Secretary may defer the payback requirement until the participant has completed his or her educational program. Written requests for deferment shall be submitted to the Secretary within 30 days of leaving the Indian Fellowship Program or the Professional Development Program and shall provide the following information—

(i) The name of the accredited institution the student will be attending;

(ii) A copy of the letter of admission from the institution;

(iii) The degree being sought; and

(iv) The projected date of completion.

(2) After approval by the Secretary for deferment of the payback provision on the basis of continuing as a full-time student, former fellows are required to submit to the Secretary a status report from an academic advisor or other authorized representative of the institution of higher education, showing verification of enrollment and status, after every grading period.

(Approved by the Office of Management and Budget under control number 1810–0020)

(Authority: 20 U.S.C. 7832 and 7833)

§ 263.37 What are the payback reporting requirements?

(a) *Written notice.* Participants shall submit to the Secretary, within 30 days of completion of their training program, a written notice of intent to complete a work-related or cash payback, or to continue in a degree program as a full-time student.

(b) *Work-related payback.* If the participant proposes a work-related payback, the written notice of intent shall include information explaining how the work-related service is related to the training received and benefits Indian people.

(1) For work-related service, the Secretary shall review each participant's payback plan to determine if the work-related service is related to the training received and benefits Indian people. The Secretary approves the payback plan if a determination is made that the work-related service to be performed is related to the training received and benefits Indian people, meets all applicable statutory and regulatory requirements, and is otherwise appropriate.

(2) The payback plan for work-related service shall identify where, when, the type of service, and for whom the work will be performed.

(3) A participant shall notify the Secretary in writing of any change in the work-related service being performed within 30 days of such change.

(4) For work-related payback, individuals shall submit a status report every six months beginning from the date the work-related service is to begin. The reports shall include a certification from the participant's employer that the service or services have been performed without interruption.

(4) Upon written request, and if appropriate, the Secretary may extend the period for completing a work-related payback by a total of 18 months.

(5) For participants that initiate, but cannot complete, a work-related payback, the payback reverts to a cash payback.

(c) *Cash payback.* If a cash payback is to be made, the Department will contact the participant to establish an appropriate schedule for payments.

(Approved by the Office of Management and Budget under control number 1810–0020)

(Authority: 20 U.S.C. 7832 and 7833)

Subpart D—How are Fellowship Payments Made?

§ 263.40 How are payments made?

(a) Fellowship payments are made directly to the institution of higher education where a Fellow is enrolled, with stipends provided to the Fellow in installments by the institution. No fewer than two installments per academic year may be made.

(b) If a Fellow transfers to another institution, the fellowship may also be transferred provided the Fellow maintains basic eligibility for the award.

(c) A Fellow who officially or unofficially withdraws or is expelled from an institution before completion of a term shall refund a prorated portion of the stipends received, as determined by the Secretary. The Secretary will require the institution to return any unexpended funds.

(Authority: 20 U.S.C. 7833)

[FR Doc. 95–15655 Filed 6–26–95; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.087]

Indian Fellowship Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1995

Purpose of Program: To provide fellowships enabling Indian students to pursue postbaccalaureate degrees in medicine, psychology, law, education, clinical psychology, and related fields, or undergraduate or postbaccalaureate degrees in business administration, engineering, natural resources, and related fields. Individuals receiving training under this program are required to perform work that is related to the training received under this program and benefits Indian people, or repay all or a prorated part of the assistance received.

Deadline for Transmittal of Applications: July 31, 1995.

Applications Available: June 30, 1995.

Available Funds: Approximately $1,000,000.

Estimated Range of Awards: $2,500–$37,000.

Estimated Average Size of Award: $16,500.

Estimated Number of New Awards: 60.

Project Period: The Secretary awards a fellowship for a period of time not exceeding four academic years for an undergraduate or doctorate degree, and two academic years for a master's degree.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 75 (§§ 75.60–75.61), 82, and 85; and (b) the regulations for this program in 34 CFR Part 263 as published in this issue of the **Federal Register**.

Fiscal Information: For the payment of stipends to fellows, the Secretary expects to set the stipend maximum at $1,000 per month for full-time students and $125 allowance per month per dependent, during the academic year. The following terms are defined in 34 CFR 263.3: ''stipend,'' ''full-time student,'' and ''dependent allowance.''

For Applications or Information Contact: Dr. John Derby, Chief, Indian Fellowship Program, Office of Indian Education, U.S. Department of Education, 600 Independence Avenue, SW, Washington, D.C. 20202–6335. Telephone (202) 260–1719. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Program Authority: 20 U.S.C. 7833.

Dated: June 21, 1995.

Thomas W. Payzant,

Assistant Secretary, Elementary and Secondary Education.

[FR Doc. 95–15656 Filed 6–26–95; 8:45 am]

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Federal Register

Tuesday
June 27, 1995

Part IV

Department of Health and Human Services

Centers for Disease Control and Prevention

CDC Recommendations for Civilian Communities Near Chemical Weapons Depots: Guidelines for Medical Preparedness; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

CDC Recommendations for Civilian Communities Near Chemical Weapons Depots: Guidelines for Medical Preparedness

AGENCY: Centers for Disease Control and Prevention (CDC), Public Health Service, HHS.

ACTION: Publication of final recommendations.

SUMMARY: On July 27, 1994, CDC published in the **Federal Register**, 59 FR 38191, ''CDC Recommendations for Civilian Communities Near Chemical Weapons Depots: Guidelines for Medical Preparedness'' and requested public comment. Seven people sent comments; many were responding on behalf of governments or other institutions in affected communities. These comments are available upon request. These recommendations incorporate changes made in response to the comments received and constitutes CDC's final recommendations for minimum standards for prehospital and hospital emergency medical services' readiness in communities near the eight locations where the U.S. stockpile of lethal chemical weapons is stored. The eight locations are: Umatilla Army Depot Activity, Oregon; Tooele Army Depot, Utah; Pueblo Army Depot Activity, Colorado; Pine Bluff Arsenal, Arkansas; Newport Army Ammunition Plant, Indiana; Anniston Army Depot, Alabama; Lexington Bluegrass Depot Activity, Kentucky; and Edgewood Area, Aberdeen Proving Ground, Maryland.

These recommendations were prepared to assist emergency planners in determining emergency medical services' readiness in communities near the 8 locations where the U.S. stockpile of lethal chemical weapons is stored. These guidelines should not be used for any purpose other than planning for the Chemical Stockpile Emergency Preparedness Program.

FOR FURTHER INFORMATION CONTACT: Linda W. Anderson, Chief, Special Programs Group, National Center for Environmental Health (NCEH), CDC, 4770 Buford Highway, NE., Mailstop F29, Atlanta, GA 30341–3724, telephone number (404) 488–7071, Facsimile Number (404) 488–4127, or Internet Address lwa3@cehod1.em.cdc.gov.

SUPPLEMENTARY INFORMATION:

CDC Recommendations for Civilian Communities Near Chemical Weapons Depots: Guidelines for Medical Preparedness

I. Executive Summary

In 1985, Congress mandated that unitary chemical warfare agents be destroyed in such a manner as to provide maximum protection for the environment, the public, and personnel involved in destroying the agents. The Centers for Disease Control and Prevention (CDC) was delegated review and oversight responsibility for any Department of the Army (DA) plans to dispose of or transport chemical weapons (Public Law 91–121 and 91–441, Armed Forces Appropriation Authorization of 1970 and 1971).

As part of its ongoing efforts to improve medical preparedness within the medical sector of civilian communities surrounding chemical agent depots, CDC has developed the following medical preparedness and response guidelines. These guidelines represent minimum standards of medical preparedness for civilian communities that might be exposed to chemical warfare agents during the incineration or storage process. These guidelines were developed in cooperation with a panel of recognized experts in the fields of emergency medicine, disaster preparedness, nursing, chemical warfare preparedness, and the prehospital emergency medical system.

II. Background

In 1985, Congress mandated that unitary chemical warfare agents be destroyed in such a manner as to provide maximum protection for the environment, the public, and the personnel involved in destroying the agents. This mandate was further defined in the Department of Defense (DOD) Authorization Act of 1986, Pub. L. 99–145. Consistent with its desire to promote the most environmentally safe method of destroying chemical agents, the National Research Council determined that incineration is the best method for disposing of the weapons (1). In 1988, the Authorization Act was amended to permit DA to set up a prototype incineration facility on Johnston Island in the Pacific in order to verify the safety of such an operation. To date, more than 700,000 pounds of chemical agent have been safely incinerated there.

CDC was delegated the responsibility of reviewing and overseeing any DA plans to dispose of or transport chemical weapons (Pub. L. 91–121 and 91–441, Armed Forces Appropriation Authorization of 1970 and 1971). In addition, an interagency agreement between CDC and DA requires CDC to provide technical assistance to the DA in protecting the public health in nearby communities during the destruction of unitary chemical agents and weapon systems.

Currently, large quantities of chemical warfare agents are stored in eight facilities [1] in the continental United States. These chemical stockpiles consist primarily of nerve agents, mustard agents, or a combination of both. In Tooele, Utah, construction of the chemical agent incinerator is now complete, and destruction of the weapons and chemicals in this depot is scheduled to begin in the Fall of 1995. To improve the ability of local health care personnel to handle emergencies related to a chemical agent release, CDC has presented medical preparedness courses to civilian medical personnel on sites adjacent to the 8 chemical weapons depots on 13 occasions. Emergency physicians, nurses, internists, surgeons, hospital administrators, and prehospital emergency medical responders have attended these courses.

As part of its ongoing efforts to improve medical readiness in civilian communities surrounding chemical agent depots, CDC developed medical preparedness and response guidelines. These guidelines represent minimum standards for medical preparedness in civilian communities that might be inadvertently exposed to chemical warfare agents during the incineration or storage process. These guidelines were developed in cooperation with a working group of recognized experts in the fields of emergency medicine, disaster preparedness, nursing, chemical stockpile emergency preparedness, and prehospital emergency medical systems. These guidelines do not supersede current medical or public health practices and requirements (e.g., precautions for handling bodily fluids). Local health and emergency management officials, working with Army personnel, must analyze the nature of possible releases at each location, determine what kinds of intoxication and what level of contamination might be possible, and match local or regional resources to the potential task.

[1] Umatilla Army Depot Activity, Oregon; Tooele Army Depot, Utah, Pueblo Army Depot Activity, Colorado; Pine Bluff Arsenal, Arkansas; Newport Army Ammunition Plant, Indiana; Anniston Army Depot, Alabama; Lexington-Bluegrass Depot Activity, Kentucky; and Edgewood Area, Aberdeen Proving Ground, Maryland.

The following recommendations for civilian community response to the release of a chemical agent are divided into prehospital and hospital arenas. The recommendations are designed to ensure medical preparedness for chemical agent emergencies. Appendix A is a summary of important questions to ask when evaluating medical preparedness in the civilian prehospital and hospital environments. The prehospital environment encompasses all response areas which are outside both the installation boundaries and the hospital grounds. People potentially affected in the prehospital environment include the general public and first responders. First responders include police, sheriff's, and fire department personnel, hazardous materials response teams, and medical response teams (including emergency medical technicians, paramedics, and any other medically trained personnel responding to the site of injury with the ambulance teams). The hospital environment includes primarily the emergency department but encompasses outdoor areas on the hospital grounds that might be used for triage and decontamination and other hospital departments that might support the hospital's response.

We cannot emphasize too strongly that actions taken within the scope of these guidelines must also comply with all other applicable regulations. In particular, responders considered in this paper falls under the provisions of the Occupational Safety and Health Administration's (OSHA) Hazardous Waste Operations and Emergency Response (HAZWOPER) regulations (29 CFR 1910.120), the respiratory protection regulations (29 CFR 1910.134), and other regulations pertaining to personal protective equipment (29 CFR 1910.132, 133, 135, and 136).

III. Recommendations for Prehospital Medical Preparedness

- Integrate all local medical emergency response plans related to the release of a chemical agent into the all-hazards State and local disaster response plans.
- Provide protective equipment for all members of the local medical response team.
- Train members of the local medical response team in these measures:

—prevention of secondary contamination from chemically exposed patients.
—decontamination procedures.
—evaluation of the medical needs of chemically exposed patients.
—treatment of large groups of patients.
—transportation of victims to a medical facility.

1. Personal Protective Equipment (PPE)

Chemical protective clothing and respiratory protection enable responders to care for patients exposed to chemicals while protecting themselves from secondary contamination.

- Ensure that such equipment protects the skin, eyes, and respiratory tracts of the emergency responders.
- HHS have recommended the use of DA battledress overgarments (BDOs) and portable air-purifying respirators (PAPRs) with a combined high-efficiency particulate (HEPA) and organic vapor cartridge to protect civilians from chemical warfare agents. OSHA is reviewing this matter and will make a determination when the review process is completed. BDOs can be used for up to 24 hours in an agent-contaminated environment at levels of up to 10 grams of agent per square meter of surface area. This recommendation should not be construed as discouraging civilian emergency responders from using more protective equipment, such as completely encapsulating suits with supplied air respirators, providing that they have and normally use such equipment in conformity with applicable regulations and can perform their required duties in that equipment.
- Train personnel required to use personal protective equipment when responding to chemical agent-related emergencies in accordance with the guidelines published by OSHA.
- Establish and use work practice guidelines to ensure that responders remain outside areas where their equipment might not be fully protective and that they leave immediately if conditions change such that there is uncertainty about the safety of the environment.
- Use new cartridges or canisters when entering an area where agent may be present and change them before the next use of the respirator.
- Use a buddy system and provide adequate communications and rescue capability for each responder working near a plume area. If a worker should experience symptoms of agent exposure and require assistance leaving the area, rescue should be accomplished using level A protection only.

2. First Responders

- Ensure that all persons (e.g., medics, paramedics, fire fighters, or medical personnel) designated by the State or local disaster plans as members of the initial medical team that responds to a chemical warfare agent release have the appropriate level of PPE and are trained in its proper use (2).
- Ensure that equipment of first responders is adequately maintained and available at all times.
- Schedule frequent drills and training sessions designed to maintain first responders' familiarity with equipment and their role in State and local disaster plans.

3. The Public

CDC does not recommend distributing PPE (e.g., gas masks or protective suits) to the public. In the unlikely event that a chemical agent release threatens the civilian population adjacent to a military facility, CDC recommends the following graded emergency response:

- Evacuate the population at risk in accordance with State or local disaster management guidelines. If no local guidelines exist, follow the Federal Emergency Management Agency (FEMA) and DA joint guidelines for evacuating civilian populations threatened by chemical warfare agents (3).
- Follow FEMA and DA recommendations for sheltering the population in place (e.g., keep people in their homes, institutions, or places of business and seal windows and doors from an external vapor threat) if it is not practical to evacuate the population (3).

4. Decontamination

Decontamination is the careful and systematic removal of hazardous substances from victims, equipment, and the environment. Transporting contaminated patients exposes emergency response personnel to chemical warfare agents and contaminates rescue vehicles. Proper decontamination prevents secondary contamination and chemical injury to medical and rescue personnel. Acceptable decontamination guidelines for persons who may possibly have been exposed to chemical warfare agents are published by FEMA and DA (3,4). Decontamination must comply with the HAZWOPER regulation, 29 CFR 1910.120(k).

- Decontamination of patients can be achieved by mechanically removing, diluting, absorbing, or neutralizing the chemical agent.
- Decontaminate all persons who are believed to be contaminated with a chemical warfare agent before they are transported to a hospital.
- Decontamination substances should be readily available. Suitable decontamination substances include soap, water, and 5% hypochlorite.
- To protect the environment, include in State and local disaster plans a

method for containing and disposing of contaminated runoff. CDC does not recommend establishing fixed decontamination units in prehospital areas because of the expense and inflexibility of such units.

5. Level of Medical Preparedness Training

- At a minimum, train persons designated as prehospital medical responders in evaluating patients exposed to chemical warfare agents, managing patients' airways (excluding intubation), transporting patients, and decontaminating patients.
- Train prehospital responders who have been designated in State or local disaster plans to operate in environments contaminated by a chemical warfare agent in the proper use of PPE in accordance with OSHA guidelines (2).
- Ensure that, at a minimum, physicians who have been designated in State and local disaster plans to provide medical supervision for prehospital emergency responders and to provide medical care for victims of a chemical agent release receive specialized training through continuing education in the emergency response areas specified for prehospital responders.

6. Patient Triage

The basic premise of patient triage, to provide maximum benefit to the greatest number of victims, is of utmost importance during a mass-casualty event involving chemical agents.

- Have the responder most experienced in evaluating patients conduct the triage.
- Base decisions regarding patient triage on local resources, the extent of patient contamination, the type of chemical warfare agent to which the patient is exposed, the patient's clinical status, and the likelihood of additional traumatic injuries.

7. Public Information

- Provide the Joint Information Center (JIC) with appropriate information to inform the public accurately and rapidly about chemical agent exposures that have or may have occurred. If possible, monitor information coming from the JIC and assist in ensuring the accuracy and timeliness of that information.
- Establish, through the local emergency medical services (EMS) and hospital community, a coordinated public information policy for all chemical emergencies.
- Work with public health and emergency management officials to contact local and regional news media in advance and establish an accurate and rapid way of disseminating critical information to the public concerning a chemical agent emergency.
- Ensure that hospital and EMS personnel coordinate their plans to provide public information with the plans of those who have overall responsibility for emergency response.

8. Communication

Medical personnel must have access to the emergency communication network 24 hours a day. Such a network should link the chemical agent depot, local and regional EMS, and all potential receiving hospitals. During any evaluation of preparedness for a chemical warfare release into civilian communities:

- Have medical personnel demonstrate the ability to access the emergency communications network.
- Ensure that the hospitals' emergency communications system allows hospital personnel to verify rapidly whether a chemical warfare agent release has occurred.

9. Transporting Exposed Victims

- Coordinate the transportation of chemical agent-exposed victims with the overall disaster response plan and include a method for tracking transported patients during an emergency response.
- Transport contaminated patients only after they have been properly decontaminated.
- Transport decontaminated patients to medical facilities (e.g., hospitals, clinics, and urgent care centers).
- Formal agreements such as memorandums of understanding (MOUs) between organizations that transport patients and the medical facilities that receive them must be part of the planning process. Medical facilities designated to receive these patients should be capable of evaluating and managing those exposed to chemical agents as described later in the hospital section (Section IV) of this document.
- Base decisions regarding urgent and emergency transfers of decontaminated patients on the capabilities of the receiving facilities, transportation resources, demand for hospital services, and the clinical condition of the patients. Certain medical care (e.g., for burns, pediatric emergencies, trauma, or pulmonary complications) might require prearrangements for patients to be transferred to a tertiary treatment center. CDC recommends that transfer and evacuation plans for victims exposed to chemical warfare agents call for land—rather than air—transportation.

10. Medical Evaluation and Treatment

- Train medical response personnel specifically to assess and manage patients exposed to chemical agents stored at the nearby military depot.
- Decontaminate all exposed patients as described above.
- Provide medical treatment (during or after contamination), according to accepted treatment modalities, to patients exposed to nerve or mustard agents. If antidotes to nerve agents are used in the field by civilian medical responders as designated in State or local disaster plans, CDC recommends using single-dose, pre-armed auto injectors, unless a higher level of medical response has already been integrated into EMS operations. Additional information on the effects of chemical warfare agents and accepted medical protocols for caring for patients exposed to mustard or nerve agents is available (5–14).

IV. Recommendations for Hospital Preparedness

1. Primary Receiving Hospitals

A primary receiving hospital is a hospital that is designated by State or local disaster plans to provide initial medical care to the civilian population in the event of a chemical warfare agent release. Such hospitals must have established protocols detailing evaluation, decontamination, and treatment procedures for patients exposed to chemical warfare agents. These hospitals should include:

- Evaluation, treatment, and decontamination protocols in the hospitals' disaster plans.
- Chemical warfare agent scenarios in disaster drills for hospitals that have been designated in State or local disaster plans to receive patients exposed to chemical warfare agents.

2. Triage Considerations

- Do not allow patients exposed to a chemical warfare agent to enter the emergency department without adequate evaluation and decontamination. Signs of mustard agent exposure, in particular, may require 24–48 hours before they become clinically evident.
- Train medical staff designated by the hospital disaster plan to perform triage during an emergency related to chemical warfare agents to recognize the physical signs and symptoms of patients who have been exposed to such agents.
- Base modifications to patient triage procedures on the extent of patient contamination, the type of chemical warfare agent to which the patient has been exposed, the patient's clinical

status, and the possibility of additional traumatic injuries. Priorities for medical treatment of patients should be determined by the most appropriately trained and experienced medical professional.

3. Security

- Address issues related to emergency department security during disasters in the hospital disaster plan.
- Restrict access to the hospital to prevent contaminated patients from entering the hospital. During a chemical agent release, security personnel should direct all patients to enter the hospital only through the triage area.

4. Decontamination

- Decontaminate all persons who may have been contaminated with a chemical warfare agent. Proper decontamination prevents secondary contamination and chemical injury to medical and rescue personnel. Acceptable decontamination guidelines for persons exposed to chemical warfare agents are published by FEMA and DA (3,4). Decontamination must comply with the HAZWOPER regulation, 29 CFR 1910.120(k).
- Have decontamination substances readily available. Suitable decontamination substances include soap, water, and 5% hypochlorite.
- In the hospital disaster plan, detail a method for catching contaminated runoff from patients whether decontamination is done inside or outside the hospital.
- At a minimum, be capable of decontaminating at least one non-ambulatory patient.
- During and after chemical agent releases that cause mass casualties, decontaminate patients outdoors. Having indoor decontamination facilities does not obviate a hospital's need to have plans for decontaminating patients outdoors during mass casualty situations. Outdoor facilities must have a means of containing the runoff from the decontamination process until it can be tested and disposed of safely.
- Design hospital disaster plans, keeping in mind the possibility of integrating local emergency response resources. Such resources could include hazardous materials emergency response teams or portable decontamination vehicles or facilities.
- In cold weather, set up temporary shelters and heaters to protect patients from extreme environmental conditions when undergoing decontamination outdoors.
- Have in place a method of controlling the flow of air in the decontamination area to prevent such air from contaminating other areas of the hospital.
- Set up a system to allow medical personnel in the decontamination area to be in continuous communication with other medical personnel in the emergency department.

5. Personal Protective Equipment (PPE)

Chemical protective clothing and respiratory protection enable responders to care for chemically exposed patients while protecting themselves from secondary contamination. This equipment must protect the skin, eyes, and respiratory tracts of the responders.

- HHS have recommended the use of DA BDOs and PAPRs with a combined high-efficiency particulate (HEPA) and organic vapor cartridge to protect civilians from chemical warfare agents. OSHA is reviewing this matter and will make a determination when the review process is completed. BDOs can be used for up to 24 hours in an agent-contaminated environment at levels of up to 10 grams of agent per square meter of surface area. This recommendation should not be construed as discouraging civilian emergency responders from using more protective equipment such as completely encapsulating suits with supplied air respirators, providing that they have and normally use such equipment in conformity with applicable regulations and can perform their required duties in that equipment.
- Hospital personnel should follow Environmental Protection Agency (EPA) and National Institute for Occupational Safety and Health (NIOSH) guidelines when managing patients exposed to unknown chemicals.
- This recommendation should not be construed as discouraging civilian emergency responders from using more protective equipment such as completely encapsulating suits with supplied air respirators, providing that they have and normally use such equipment in conformity with applicable regulations and can perform their required duties in that equipment.
- Response personnel should be trained to use PPE when responding to a chemical agent emergency according to OSHA guidelines (2).

6. Level of Training

- Medical staff designated by the hospital disaster plan should be trained to provide direct patient care during a chemical warfare agent emergency to a level of medical preparedness that allows them to assess, decontaminate, and manage the treatment of victims of chemical warfare agent releases.
- Medical staff who are required to wear decontamination attire in decontamination procedures must receive training in the use of PPE according to OSHA regulations (2–4).

7. Transportation of Patients to other Medical Facilities

- Have prearranged written agreements with those medical facilities that agree to accept patients who are exposed to military chemical agents.
- Do not transfer patients without notifying the hospital and having the patient accepted by a physician.
- Have standardized forms available to record patient information and management status.

8. Specific Antidotes

- Have decontaminating solutions available in the emergency department. If nerve agents are stored adjacent to the civilian community, have atropine in multiple-dose units available in the emergency department and in the hospital pharmacy. In addition, have the hospital pharmacy stock atropine and pralidoxime in sufficient quantities to cope with the anticipated number of patients who could be managed by that facility in response to a chemical warfare agent release. Atropine and pralidoxime should be administered intravenously in the emergency environment.

9. Hospital Disaster Plan

- Include plans for providing medical care for patients exposed to chemical agents in the hospital's disaster plan.
- Have in place a method for using the emergency communication system so that reports of a chemical warfare agent release can be verified rapidly. Also, include provisions to coordinate activities with State and local disaster plans for mass decontamination.
- Include in disaster drills scenarios in which patients have become exposed to chemical warfare agents.
- Use the hospital quality assurance program to review disaster drills and decontamination procedures and to assist in maintaining the professional skills of hospital personnel necessary to treat the effects of exposure to a chemical warfare agent.

10. Tertiary Hospitals

A tertiary receiving hospital is a hospital that receives referrals from primary receiving hospitals. Additional services such as burn care, psychiatric service, and toxicologic consultation are available at the tertiary level of care.

- Ensure that tertiary hospitals designated by State or local disaster plans to provide care for persons exposed to chemical warfare agents have, at a minimum, emergency

response capabilities similar to those of the primary receiving hospital.

- Ensure that tertiary hospitals coordinate their disaster plans with State and local disaster plans for mass decontamination of persons exposed to chemical warfare agents.

V. References

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Dated: June 20, 1995.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

Appendix A

Summary of Important Medical Preparedness Considerations for Communities Surrounding Chemical Agent Stockpiles

1. Do the communities that surround chemical warfare agent depots have a disaster plan that details the role of the prehospital and hospital medical community during a chemical warfare agent emergency?

2. If medical personnel are designated to treat chemical warfare agent casualties, do they have adequate training to meet minimal standards for evaluating, decontaminating, and treating victims of a chemical warfare agent release?

3. Do medical personnel who are designated by State, local, and hospital disaster plans to use PPE in response to an emergency related to chemical warfare agents have the necessary OSHA level of training to use these devices effectively and safely?

4. If the local disaster plan has provisions to evacuate or transfer patients to other hospitals for further treatment and evaluation, do existing MOUs cover the transfer of chemically contaminated patients?

5. Do hospitals named in the State or local disaster plans have an adequate stockpile of antidotes and decontamination solutions to provide complete medical treatment to at least one chemically contaminated patient?

6. Are the hospitals that are designated in the State or local disaster plans able to decontaminate at least one non-ambulatory patient exposed to chemical warfare agent?

7. Do the disaster plans of hospitals designated to receive patients by State and local disaster plans have specific provisions that detail how they will control access to their medical facilities during a chemical warfare agent emergency?

8. Are all levels of the medical community that are designated by State or local disaster plans to respond to a chemical warfare agent emergency able to communicate via either the State or local disaster communication network?

Appendix B

Working Group Participants

Mr. Lawrence Gallagher, Associate Director, Plant Technology and Management, Joint Committee on Accreditation of Health Care Organizations, Oakbrook, Illinois.
Mr. Kenneth Gray, Fire Chief, Confederate Tribes of the Umatilla Indian Reservation, Pendleton, Oregon
Mr. Howard Kirkwood, Jr., Chief, Emergency Response Services, Oregon Department of Human Resources, Portland, Oregon
Mr. Denzel Fisher, Emergency Preparedness Officer, Office of the Assistant Secretary of the Army, (Installations, Logistics, and Environment), Washington, D.C.
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Carole A. Mays, M.S., R.N., C.E.N., Clinical Nurse, Saint Joseph Hospital,Towson, Maryland
Captain Jeff Rylee, Hazardous Materials Coordinator, Salt Lake City Fire Department, Salt Lake City, Utah
Matthew Rice, M.D. J.D.,Chief, Department of Emergency Medicine, Madigan Army Medical Center, Tacoma, Washington
Mr. Allen Short, Health Department Emergency Coordinator, Utah Department of Health, Salt Lake City, Utah
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[FR Doc. 95–15657 Filed 6–26–95; 8:45 am]

BILLING CODE 4163–18–P

Federal Register

Tuesday
June 27, 1995

Part V

Federal Emergency Management Agency

Changes to the Hotel and Motel Fire Safety Act National Master List; Notice

FEDERAL EMERGENCY MANAGEMENT AGENCY

Changes to the Hotel and Motel Fire Safety Act National Master List

AGENCY: United States Fire Administration, FEMA.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA or Agency) gives notice of additions and corrections/changes to, and deletions from, the national master list of places of public accommodations which meet the fire prevention and control guidelines under the Hotel and Motel Fire Safety Act.

EFFECTIVE DATE: July 27, 1995.

ADDRESSES: Comments on the master list are invited and may be addressed to the Rules Docket Clerk, Federal Emergency Management Agency, 500 C Street, SW., room 840, Washington, D.C. 20472, (fax) (202) 646–4536. To be added to the National Master List, or to make any other change to the list, please see Supplementary Information below.

FOR FURTHER INFORMATION CONTACT: John Ottoson, Fire Management Programs Branch, United States Fire Administration, Federal Emergency Management Agency, National Emergency Training Center, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447–1272.

SUPPLEMENTARY INFORMATION: Acting under the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. 2201 note, the United States Fire Administration has worked with each State to compile a national master list of all of the places of public accommodation affecting commerce located in each State that meet the requirements of the guidelines under the Act. FEMA published the national master list in the **Federal Register** on Friday, December 2, 1994, 59 FR 61932, with corrections published Monday, February 27, 1995, 60 FR 10636, and published changes approximately monthly since then.

Parties wishing to be added to the National Master List, or to make any other change, should contact the State office or official responsible for compiling listings of properties which comply with the Hotel and Motel Fire Safety Act. A list of State contacts was published in 59 FR 50132 on September 30, 1994. If the published list is unavailable to you, the State Fire Marshal's office can direct you to the appropriate office. Periodically FEMA will update and redistribute the national master list to incorporate additions and corrections/changes to the list, and deletions from the list, that are received from the State offices.

Each update contains or may contain three categories: ''Additions;'' ''Corrections/changes;'' and ''Deletions.'' For the purposes of the updates, the three categories mean and include the following:

''Additions'' are either names of properties submitted by a State but inadvertently omitted from the initial master list or names of properties submitted by a State after publication of the initial master list;

''Corrections/changes'' are corrections to property names, addresses or telephone numbers previously published or changes to previously published information directed by the State, such as changes of address or telephone numbers, or spelling corrections; and

''Deletions'' are entries previously submitted by a State and published in the national master list or an update to the national master list, but subsequently removed from the list at the direction of the State.

Copies of the national master list and its updates may be obtained by writing to the Government Printing Office, Superintendent of Documents, Washington, DC 20402–9325. When requesting copies please refer to stock number 069–001–00049–1.

The update to the national master list follows below.

Dated: June 21, 1995.

John P. Carey,

General Counsel.

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 06/19/95 UPDATE

Index property name	PO box/Rt No./Street address	City	State/Zip	Telephone
Additions				
Alaska:				
AK0045 Gustavus Inn	1 Mile Gustavus Rd.	Gustavus	AK 99826	(907) 697–2254
AK0044 Juneau Airport Travelodge	9200 Glacier	Juneau	AK 99801	(907) 789–9700
California:				
CA1448 Super 8 Motel	2460 Whipple Rd.	Hayward	CA 94544	(510) 489–3888
CA1450 Red Roof Inn	204 N. Village Ct	San Dimas	CA 91773	(909) 599–2362
CA1449 Holiday Inn Golden Gateway	1500 Van Ness Ave	San Francisco	CA 94109	(415) 441–4000
CA1447 Super 8 Motel	101 Allison Ct.	Vacaville	CA 95688	(707) 449–8884
CO0296 Golden Buff Lodge	1725 28TH St	Boulder	CO 80301	(303) 442–7450
CO0297 Holiday Inn	3836 E Mulberry	Fort Collins	CO 80526	(970) 484–4660
Indiana:				
IN0419 Days Inn	2180/E King St	Franklin	IN 46131	(317) 736–8000
IN0418 Quality Inn Castleton	8275/Craig St	Indianapolis	IN 46250	(317) 841–9700
Maryland:				
MD0290 Holiday Inn Cromwell	1100 Cromwell Bridge Rd	Towson	MD 21204	(410) 823–4410
MD0289 Days Inn Waldorf	11370 Days Ct	Waldorf	MD 20603	(301) 932–9200
North Dakota:				
ND0082 Rodeway Inn	4001 Gateway Drive	Grand Forks	ND 58203	(701) 795–9960
ND0083 Ranch House Motel	408 Business Loop W	Jamestown	ND 58401	(701) 252–0222
New York:				
NY0613 Days Hotel	790 8th Avenue	New York	NY 10019	(212) 581–7000
NY0614 Howard Johnson Plaza Hotel	851 8th Avenue	New York	NY 10019	(212) 581–4100
Texas:				
TX0642 Sheraton Hotel	707 North Shoreline Blvd	Corpus Christi	TX 78401	(512) 882–1700
TX0641 Ashmore Inn and Suites	4019 S Loop 289	Lubbock	TX 79423	(806) 785–0060
TX0640 Seven Oaks Resort/Conference Center.	1400 Austin Highway	San Antonio	TX 78209	(210) 824–5371
Washington:				
WA0291 Rodeway Inn	3710 Meridian St	Bellingham	WA 98225	(206) 738–6000

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 06/19/95 UPDATE—Continued

Index property name	PO box/Rt No./Street address	City	State/Zip	Telephone
WA0290 Silver Cloud Inn Lynnwood	19332 36th Ave W	Lynnwood	WA 98036	(206) 775–7600
WA0292 Econo Lodge	40 NE 2nd St	Stevenson	WA 98648	(509) 427–5628
West Virginia:				
WV0204 Pioneer Motel	Rt 152	Wayne	WV 25570	(304) 272–9999
Changes/Corrections				
California:				
CA1444 Wyndham Bel Age	1020 N. San Vicente Blvd	West Hollywood	CA 90069	(310) 854–1111
Indiana:				
IN0402 Holiday Inn Express	201 Frontage Road	Lafayette	IN 47905	(317) 499–4808
Maryland:				
MD0251 Holiday Inn International Airport	890 Elkridge Landing Rd	Linthicum	MD 21090	(410) 859–8400
New York:				
NY0439 Radisson Hotel at Rochester Plaza.	70 State St	Rochester	NY 14614	(716) 546–3451
Deletions				
None				

[FR Doc. 95–15733 Filed 6–26–95; 8:45 am]

BILLING CODE 6718–26–U

Federal Register

Tuesday
June 27, 1995

Part VI

Department of the Interior

Bureau of Indian Affairs

Confederated Salish and Kootenai Tribes, Montana; Acceptance of Retrocession of Jurisdiction; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Confederated Salish and Kootenai Tribes, Montana; Acceptance of Retrocession of Jurisdiction

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: Pursuant to the authority vested in the Secretary of the Interior by Executive Order No. 11435 of November 21, 1968 (33 FR 17339) and redelegated to the Assistant Secretary—Indian Affairs by 209 DM 8, I hereby accept as of 12:01 a.m. PST, July 1, 1995, retrocession to the United States of partial criminal jurisdiction over the Confederated Salish and Kootenai Tribes, which was acquired by the state of Montana pursuant to Public Law 83–280, 67 Stat. 588, 18 U.S.C. § 1162, 28 U.S.C. § 1360.

The retrocession herein accepted was offered by Proclamation by the Governor for the State of Montana on September 30, 1994, and transmitted to the Secretary on November 18, 1994. By Resolution No. 94–123 dated April 1, 1994, the Confederated Salish and Kootenai Tribes requested that the State of Montana retrocede partial criminal jurisdiction to the Tribes.

FOR FURTHER INFORMATION CONTACT: Mr. Theodore R. Quasula, Chief, Bureau of Indian Affairs, Division of Law Enforcement Services, 1849 C Street, N.W., Mailstop 1308–MIB, Washington, D.C. 20240, telephone number (202) 208–5786.

Dated: June 9, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–15706 Filed 6–26–95; 8:45 am]

BILLING CODE 4310–02–P

Federal Register

Tuesday
June 27, 1995

Part VII

Department of Justice

Bureau of Prisons

28 CFR Part 524

Classification and Programs Review; Final Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 524

[BOP–1026–F]

RIN 1120–AA30

Classification and Program Review

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons is amending its regulations on Classification and Program Review to require program reviews for an inmate at least once every 90 days when an inmate is within twelve months of the projected release date. This amendment is intended to allow for the more efficient use of Bureau staff.

EFFECTIVE DATE: July 27, 1995.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its regulations on Classification and Program Review. A proposed rule on this subject was published in the **Federal Register** November 1, 1994 (59 FR 54782).

Program reviews provide the inmate with an opportunity to discuss staff's assessment of the inmate's performance in the institution's programming. Previously, regulations in 28 CFR 524.12(b) had required a program review for an inmate every 180 days until the inmate was within two years of the projected release date. When an inmate was within two years of projected release, a program review was required at least once every ninety days. In the interest of making better use of staff resources, the Bureau proposed to continue the conducting of program reviews every 180 days until the inmate is within twelve months of the projected release date.

Three comments were received on the proposed rule. One commenter supported the adoption of the proposed rule, and two commenters either opposed or offered suggested revisions to the proposed rule.

One commenter objected to the use of the phrase ''projected release date,'' stating that it was not appropriate to inmates convicted under the Sentencing Guidelines. This commenter recommended use of the phrase ''Mandatory Release Date'' or ''projected date for change of Classification or Transfer to Lower Level or CCC [community corrections center],'' urged retention of the phrase ''following initial classification,'' and argued that the times allowed for consideration and processing are such that the 90 day schedule should be maintained. Other questions raised by this commenter pertained to the implementation at Bureau institutions of specific provisions of 28 CFR part 524, subpart B. These latter questions are appropriately addressed through the Bureau's Administrative Remedy Program (28 CFR part 542) rather than through this rulemaking procedure.

Another commenter acknowledged that the proposed rule would save time for unit staff, but questioned whether inmates would be adversely affected in the consideration and planning for community corrections center placement (for example as part of a work cadre program or as part of release to the community). This commenter recommended that the 90 day schedule be instituted at the 18 month mark, rather than at the 12 month mark.

The Bureau disagrees that the phrase ''projected release date'' is not appropriate for inmates sentenced under the guidelines United States Sentencing Commission. The statutory release date under such guidelines may need to be recalculated in accordance with the status of an inmate's good conduct time. Consequently, the phrase ''projected release date'' adequately expresses the contingent nature of a statutory release date. The Bureau also believes the phrase ''following initial classification'' is not necessary, given the logical expectation when a review would occur.

With respect to the scheduling of program reviews, the Bureau believes that a program review every 180 days until the final year before release is more than adequate. Monitoring work cadre availability, relocation efforts, community corrections center processing, or other critical release-related matters have always been carefully monitored by unit team staff outside of program review meetings. Should the inmate, during the second year before release, wish to discuss one of these issues or another important matter with the unit team before his or her next 180 day scheduled review, there is a provision in rules (§ 524.14) to allow staff to hold additional and special program reviews when necessary. Additionally, the status of release preparation paperwork has always been communicated to inmates through individual counseling, and not solely through unit team meetings. Reducing the frequency of program reviews during the second year before release will increase the amount of time staff have for the processing of such paperwork.

In this final rule, the Bureau is also correcting a typographical error (''and'' rather than ''an'') in § 524.14 which was noted by one of the commenters.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of Executive Order 12866, and accordingly was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Public Law 96–354), does not have a significant impact on a substantial number of small entities.

Members of the public may submit comment concerning this rule by writing the previously cited address. These comments will be considered but will receive no response in the **Federal Register**.

List of Subjects in 28 CFR Part 524

Prisoners.

Kathleen M. Hawk,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), part 524 in subchapter B of 28 CFR chapter V is amended as set forth below.

Subchapter B—Inmate Admission, Classification, and Transfer

PART 524—CLASSIFICATION OF INMATES

1. The authority citation for 28 CFR part 524 is revised to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3521–3528, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 21 U.S.C. 848; 28 U.S.C. 509, 510; title V, Pub. L. 91–452, 84 Stat. 933 (18 U.S.C. chapter 223); 28 CFR 0.95–0.99.

2. In § 524.12, paragraph (b) is revised to read as follows:

§ 524.12 Initial classification and program reviews.

* * * * *

(b) Staff shall conduct a program review for each inmate at least once every 180 days. When an inmate is within twelve months of the projected release date, a program review shall be conducted at least once every 90 days.

* * * * *

3. Section 524.14 is amended by revising the second sentence to read as follows:

§ 524.14 Unscheduled reviews.

* * * Upon request of either the inmate or staff, and with the concurrence of the team chairperson, an advanced program review may occur.

[FR Doc. 95–15748 Filed 6–26–95; 8:45 am]

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